EUROPEAN
COMMISSION

Brussels, 28.9.2021
SWD(2021) 279 final

COMMISSION STAFF WORKING DOCUMENT

EVALUATION

of Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (2003/361/EC)

{SWD(2021) 280 final}

EN EN

COMMISSION STAFF WORKING DOCUMENT

EVALUATION

of Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (2003/361/EC)

Table of contents

Glossary

Term or acronym	Meaning or definition
The EU SME Definition ('the Definition')	Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises, Official Journal L 124, p. 36–41, of 20 May 2003 http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32003H0361 This Definition replaced : Commission Recommendation 96/280/EC of 3 April 1996 concerning the definition of small and medium-sized enterprises, Official Journal L 107, p. 4-9, of 30 April 1996. https://op.europa.eu/en/publication-detail/-/publication/2e3b13c5-c62c-4261-a6c8-57d83549aec5/language-en
Evaluation study by external contractor - ('the study')	Available on https://op.europa.eu/en/home
EIB	European Investment Bank
EIF	European Investment Fund
ERDF	European Regional Development Fund
EFSI	European Fund for Strategic Investments
ECHA	European Chemical Agency
EMA	European Medicines Agency
REA	European Research Executive Agency
EASME	Executive Agency for Small and Medium-sized Enterprises

1. INTRODUCTION

The EU SME Definition (Recommendation 2003/361/EC) (hereafter 'the Definition') is the structural tool to identify those enterprises that are confronted with market failures and particular challenges (e.g. access to finance) due to their size, and therefore are allowed to receive preferential treatment[1] in public support. The initial Definition dates back to 1996. In 2003 the current one was issued to take account of economic developments. It introduced the micro-enterprises category and the distinction between autonomous, partner and linked enterprises[2]. It replaced the 1996 recommendation as of 1st January 2005.

2. BACKGROUND TO THE INTERVENTION

The drivers and intended objectives for the intervention are summarised in the Intervention Logic in Annex 5.

In a single market with no internal frontiers, it is essential that measures in favour of SMEs are based on a common definition to improve their consistency and effectiveness, and to limit distortions of competition. This is all the more necessary given the extensive interaction between national and EU measures. Within the setting of multiple definitions, often based on a local approach and using a diversity of criteria, the overarching objectives in establishing an EU SME Definition in 1996 were thus to:

1. Ensure that available support and special measures to reduce administrative burden are focussing on those enterprises that are most in need of it, and

2. Create a level playing field for EU-based SMEs within the Internal Market with regard to their access to public support and finance.

In order to achieve these two overaching objectives, specific objectives of both the initial (1996) and the revised (2003) EU SME Definitions were to:

- Lay down a common set of rules for identifying those enterprises which are confronted with market failures (e.g. asymmetric information) and particular challenges due to their size (e.g. lack of collateral), and are therefore allowed to receive preferential treatment in public support.
- Avoid the proliferation of different "SME definitions" at Community and national level, which would be detrimental to the internal market

[1] In some cases, rather than a preferential treatment, the specific rules on SMEs aim to remove possible discriminatory effects that the general rules could entail when applied to these companies. For example, the public procurement rules grant SMEs facilitated access to public contracts to remove their inherent disadvantage in applying.

[2] Commission Recommendation of 3 April 1996 concerning the definition of small and medium-sized enterprises (96/280/EC) https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31996H0280:en:HTML

- Improve the consistency and effectiveness of policies targeting SMEs and limit the risk of distortion of competition.

The 2003 revision, which corresponds to the current version of the SME Definition, aimed at reflecting general economic developments and better address the different categories of SMEs and of the various types of relationships between enterprises. It thus set financial ceilings for the growing number of micro-enterprises; facilitated equity financing for SMEs by granting favourable treatment to certain investors, such as regional funds, venture capital companies and business angels; promoted innovation and improved access to R&D by enabling universities and non-profit-making research centres to have a financial stake in an SME.

The Definition distinguishes three main categories of enterprises, based on the following criteria: staff headcount, the financial (annual turnover or balance sheet) and the ownership criterion.

To qualify as an SME, a company should employ less than 250 staff and have either a net turnover of less than € 50 million, or a balance sheet total of less than € 43 million. These ceilings apply to the figures for individual firms only. A firm that is part of a larger group may need to include staff headcount/turnover/balance sheet data from that group too.

Table 1 – Size categories in the SME definition

Company category	Staff headcount	Turnover	or	Balance sheet total
Medium-sized	< 250	≤ € 50 m		≤ € 43 m
Small	< 50	≤ € 10 m		≤ € 10 m
Micro	< 10	≤ € 2 m		≤ € 2 m

It should be noted that the Definition does not prevent policy interventions aiming at other categories of enterprises (defined by different criteria). This is the case, for example, for start-ups or midcaps.

3. Implementation / State of Play

The Definition is the key tool underpinning a long standing policy for small and medium enterprises, which has been continuously developed from the first Integrated Programme in favour of SMEs and the craft sector[3], over the Small Business Act[4], to the current SME Strategy for a sustainable and digital Europe which will cover all types of SMEs and support them in their transition to a digital and green economy[5]. Over the years, the Definition has also established itself as a reference point in other EU policies, such as

[3] Integrated Programme in favour of SMEs and the craft sector, COM(94)207 final, 03.06.1994
[4] Published in 2008 COM(2008) 394 final, 25.06.2008 and revised in 2011, COM(2011) 78 final, 23.02.2011
[5] https://ec.europa.eu/digital-single-market/en/news/sme-strategy-launched-european-commission

competition (State Aid), Research and Innovation, European Structural Investment Funds, etc., laying down the eligibility criteria for potential beneficiaries. It is furthermore relevant in the context of several administrative exemptions and reduced fees (e.g. REACH[6] and European Medicines Agency). Currently, around 100 European legal acts contain a reference to the SME definition[7]. In parallel with the 2003 Recommendation, the Commission published a user guide[8] to provide practical guidance on its application, based on case law and standardised practice.

As mentioned above, the Definition divides the SME population in three categories: micro, small and medium-sized enterprises.

According to Eurostat data, micro companies are by far the most common type (93.1 %) of all enterprises in 2018. Small companies account for less than 6%, while the mid-sized represent less than 1% and the large enterprises 0.18%.

Despite the uneven distribution of the number of enterprises and employment across the three SME size classes, their contribution is broadly equal in terms of value added. The differences in the prevalence of SMEs across the EU - expressed in number of SMEs per 1,000 inhabitants - is almost entirely a reflection of the very wide range in the number of micro SMEs, since the number of small and medium SMEs varies relatively little among Member States[9].

As mentioned above, the Definition is based on the following criteria: staff headcount, the financial (annual turnover or balance sheet) and the ownership criterion.

Regarding **staff headcount,** there are considerable differences in terms of distribution of employment by enterprise size in Member States: according to ESTAT, in 2018 SMEs accounted for 83 % of employment in Greece and 53 % in France, while SME employment in newer Member States is distributed right across the range (see table 16 in Annex 4).

The average staff headcount in SMEs decreased by 11 %: from 4.4 persons in 2003 to 3.7 in 2018. This is the result of a decreasing average headcount in micro-enterprises (from 2.1 employees in 2003 to 1.8 in 2018) as well as in small and medium-sized enterprises over the same period (-3.1 % and -1.8 % respectively), bringing the average headcount in 2018 to 19 for small and 98 for medium-sized companies, thus well below the ceilings set by the SME definition. As a result of the Covid crisis, employment in SMEs is estimated[10] to have further fallen by -1.7% in 2020 and SME value added by -7.6%, with

---

6 Registration, Evaluation, Authorisation and Restriction of Chemicals

7 See annex 13 of the Study – to be published on https://op.europa.eu/en/home

8 European Commission: User guide to the SME Definition, available at http://ec.europa.eu/DocsRoom/documents/15582/attachments/1/translations

9 For further information on the distribution of SMEs across Member States and sectors, see Annex 4 – please note that this Annex still includes data from the UK as, at the time the study was done, it was still a member of the EU.

10 Estimates for 2020 produced by DIW Econ, based on 2008-2018 figures from the Structural Business Statistics Database as well as provisional data for 2019-2020 from the National Accounts database and the Short-Term Business Statistics Database (EUROSTAT).

this declining trend being visible across all SME size classes. The average number of people employed per SMEs is also estimated to have fallen.

Regarding the ownership criterion, the Definition has been the subject of few court cases. In those instances[11], the Court encouraged the application of the 'spirit' of the Definition and the *effet utile* requirement that only enterprises that suffer from the handicaps typical of an SME should be entitled to the advantages deriving from that status. It must also be ensured that the SME definition is not circumvented by purely formal means.

In 2014, the European Court of Justice dealt with the concept of linked enterprises for the first time in case C-110/13 (**HaTeFo**): '*an SME should be assessed in its broader sense, including all legal and economic relations with others (a natural person or a group of natural persons) acting jointly to decide whether they constitute a single economic unit, even though they do not formally have any of the relationships referred to in the first subparagraph of Article 3(3) of the Definition'*.[12] In 2017, this conclusion was confirmed in the State id context in Case C-53/17 Bericap.

At the same time, in 2016, the General Court concluded in two judgments for cases T-675/13 (**K Chimica**) and T-587/14 (**Crosfield**) [13], that the European Chemicals agency (ECHA[14]) had unduly denied the benefit of reduced REACH registration fee for small enterprises to the complainants. The ruling stated that the Definition sets out an exhaustive list of relationships that are relevant, and that one must have regard to '*the enterprises linked to the partner enterprises of the applicant*' and '*the partner enterprises of the enterprises linked to the applicant*' to identify an SME. The judgments thus challenged the Commission's longstanding stricter interpretation of the Definition at that time. For certain commentators, this raises concerns as to whether also non-genuine SMEs may be able to receive the SME status under the Definition. However, as the vast majority of SMEs in the EU are autonomous companies, this would only be relevant in a very limited number of cases[15] [16].

The Definition has become a central reference point across the European Union, despite its legal status - a recommendation per se not binding for Member States. Consideration 7 and Article 2[17] of the Recommendation allow the Member States, the European

[11] See in particular Cases C-91/01 Italy v Commission, EU:C:2004:244 paragraphs 31, 50-54, T-137/02 Pollmeier Malchow v Commission, EU:T:2004:304, paragraphs 61-62, C-110/13 HaTeFo, EU:C:2014:114, paragraphs 34, 39, C-53/17 Bericap, EU:C:2017:370, paragraphs 14-19, C-516/19 NMI Technologietransfer, EU:C:2020:754, paragraphs 31-34.

[12] http://curia.europa.eu/juris/document/document.jsf?docid=148389&doclang=EN

[13] http://curia.europa.eu/juris/document/document.jsf?text=&docid=183335&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=59901

http://curia.europa.eu/juris/document/document.jsf?text=&docid=183329&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=59771.

[14] https://echa.europa.eu/

[15] See section on ownership criterion

[16] Although in the context of this study no data have been collected on the prevalence of autonomous companies in the different Member States or sectors, the Chemicals Agency mentioned that they have a noticeable rate of applicants with complicated ownership structures.

[17] Consideration 7: "As in Recommendation 96/280/EC, the financial ceilings and the staff ceilings represent maximum limits and the Member States, the European Investment Bank and the European Investment Fund may fix ceilings lower than the Community ceilings if they wish to direct their

Investment Bank (EIB) and the European Investment Fund (EIF) some flexibility in its application.

For what concerns the **Member States**, 17 apply solely the Definition.[18] Where a national definition applies, the same structure and main features (size classes, criteria, grace period and ownership rules) are used –with very few exceptions. 22 Member States use the same size categories as the Definition. France does not distinguish between small and medium, while Germany and Denmark do not define micros and Sweden has only small companies. Belgium opted for a different approach, where micro/small companies cannot be subsidiaries or parent companies and added the category of "small-size groups[19]", which replaces the medium-sized category. In addition, while all Member States apply the same headcount ceiling for the three size classes, some adjust the financial ceilings to better respond to the national business structure.[20]

A group of Member States where micro-enterprises represent the largest part of national business population applies lower financial ceilings for the micro sized-class (€700,000 turnover and €350,000 balance sheet total)[21] that correspond to the ones set by the Accounting Directive. Together with Sweden and Germany, these Member States also apply lower financial ceilings for small enterprises.

On the other side of the spectrum, Germany and France introduced an additional size category, covering companies that have more than 250 employees. In Germany, "Mittelstand" companies (250-499 employees)[22] feature the typical characteristics, advantages and resource limitations of family-owned enterprises. In France, the ETI (Entreprises de Taille Intermédiaire) category covers enterprises that are not SMEs but have less than 5 000 employees and an annual turnover not exceeding EUR 1 500 million or a balance sheet total not exceeding EUR 2 000 million.

---

measures towards a specific category of SME. In the interests of administrative simplification, the Member States, the European Investment Bank and the European Investment Fund may use only one criterion - the staff headcount - for the implementation of some of their policies. However, this does not apply to the various rules in competition law where the financial criteria must also be used and adhered to."

Article 2: "The ceilings shown in Article 2 of the Annex are to be regarded as maximum values. Member States, the European Investment Bank and the European Investment Fund may fix lower ceilings. In implementing certain of their policies, they may also choose to apply only the criterion of number of employees, except in fields governed by the various rules on State Aid."

[18] Bulgaria, Cyprus, Czech Republic, Estonia, Finland, Greece, Hungary, Italy, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Spain.

[19] Small-size group ceilings: 250 FTE, 34 MEUR turnover/17 MEUR balance sheet

[20] The turnover and balance sheet ceilings are different in 10 countries. Six Member States (Austria, Croatia, Denmark, Ireland, Latvia, Slovenia) apply the ceilings of the Accounting Directive. Germany, Belgium and Sweden use the ceilings provided by the Accounting Directive only to some extent.

[21] Austria, Belgium, Croatia, Denmark, Ireland, Latvia, Slovenia.

[22] The share of non-SME enterprises in Germany is larger than the EU average representing one fourth of all large enterprises in the EU. On the other hand, while the EU average share of micro-enterprises in the overall enterprise population is above 90 %, in Germany these represent only 82 %. Based on: Annual enterprise statistics by size class for special aggregates of activities (NACE Rev. 2) [sbs_sc_sca_r2] (year reference 2015).

Among the national definitions[23] that do not completely match the Definition, differences concern company categories (size-classes)[24], financial criteria[25], grace period[26] and ownership criterion[27].

The Capital Requirements Regulation introduced a capital reduction factor for loans to small and medium enterprises (SMEs) – the so-called SME Supporting Factor - to provide an adequate flow of credit to SMEs[28]. In this context, the use of the SME Definition is obligatory. According to the European Banking Authority (EBA) however, banks tend to use a multitude of SME definitions for internal reporting or in their customer relations, often employing only a single criterion to facilitate their task (usually turnover, balance sheet total is less used and headcount is the least used criterion). The definition used varies depending on their own size and/or the size of the country in which they operate[29]. Banks in larger countries tend to have a ceiling of about EUR 50 million turnover, whereas banks in smaller countries tend to have one around EUR 10 million or less. A few banks differentiate the smallest companies within the SME and then apply a EUR 2 million or EUR 2.5 million ceiling.

4. PURPOSE AND SCOPE OF THE EVALUATION

The Definition's structure and scope have been confirmed at several instances. After its entry into force on 1 January 2005, two implementation reports were prepared in 2006[30] and 2009[31] and an evaluation was made in 2012[32]. These exercises concluded that the Definition provided a stable framework and that major changes would cause disadvantages that could substantially outweigh the intended benefits of a revision.

[23] Annex 6 presents an overview of key aspects of the Member States' SME definitions.

[24] France does not distinguish small from medium. Belgium uses three size-classes: micro, small and small-size group. Sweden only refers to small companies.

[25] The Croatian and Slovenian laws apply the criterion of "total assets" instead of "balance sheet".

[26] All Member States operate with the same 2-year grace period as the Definition, with the exception of Croatia (only one year).

[27] In seven countries (Austria, Denmark, France, Germany, Ireland, Latvia, Sweden), ownership criterion is not mentioned in the national legal acts defining SMEs. Belgium has explicitly set up different rules, where micro or small companies cannot be a subsidiary or a parent company (the ceilings for small-size groups then apply). For the rest of the Member States, the EU rules are applied.

[28] Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012. It allows banks to set aside reduced regulatory capital to their SME lending under certain conditions (Article 501).

[29] Internationally active banks tend to use their own SME definition that can vary for each country of operation, whereas smaller banks usually share a common definition with other banks in their country of operation. Banks in larger countries tend to have a ceiling of about EUR 50 million turnover for defining SMEs, whereas banks in smaller countries tend to have a ceiling around EUR 10 million or less. A few banks differentiate the smallest companies within the SME and then apply a EUR 2 million or EUR 2.5 million ceilings.

[30] Report from the Commission on the Implementation of the Commission Recommendation (2003/361/Ec) of 6 May 2003 concerning the Definition of Micro, Small And Medium-Sized Enterprises - C(2006)7074 of 21.12.2006

[31] Commission Staff Working Document on the implementation of Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises - SEC(2009) 1350 final of 7.10.2009

[32] https://op.europa.eu/en/publication-detail/-/publication/5849c2fe-dcd9-410e-af37-1d375088e886

Recurring issues and concerns, however, lead the Commission to re-assess to what extent the Definition is still fit for purpose.

This Staff Working Document is based on an evaluation study[33] carried out by an external contractor under the lead of the Danish Technology Institute, supplemented with Commission's own research and analysis. Both the study and the Staff Working Document cover the implementation of the Definition and the SME population as they evolved since 2003 (when the current ceilings were established) until 2020, throughout the Member States. Calculations of averages include the UK where relevant, as it was still a Member State during the evaluation. Findings from the previous evaluations mentioned above have been duly taken into account.

In particular, this assessment focused on 3 main areas:

- the extent to which the Definition is still fit for its purpose or should be adapted in line with economic developments: in order to avoid SMEs losing their status due to inflation or productivity growth, the evaluation assessed whether the financial ceilings are still relevant under the current economic situation;

- the clarity of the Definition: the evaluation looked at whether the Definition is clear enough to be interpreted in a uniform manner and provides legal certainty so that only 'genuine' SME benefit from the status. More specifically, the assessment looked at whether certain terms and concepts of the Definition could be explained more clearly, leaving less room for interpretation and simplifying the practical application of the Definition;

- the coherence with recent SME policy developments: there are new Commission policy initiatives focusing on the growth of SMEs (i.e. start-ups and scale-ups). There was therefore the need to assess if the support linked to the SME status does not discourage SMEs from growing.

5. METHOD

The evaluation covers the period from 2003 to 2020 and is structured according to five evaluation criteria: relevance, effectiveness, efficiency, coherence, and EU added value. It is based on the analysis and synthesis of a wide range of primary and secondary data:

• Desk research, including a literature review[34], statistical review, and review of EU legal acts applying the Definition;

• A targeted survey addressed to SMEs (SME survey[35]) across all EU Member States, running from December 2017 to March 2018, which collected 5 651 answers (see Synopsis report in Annex 2);

• 141 in-depth interviews carried out with stakeholders at EU level[36] and at national level[37]

[33] Available on https://ec.europa.eu/info/publications_en
[34] See annex 11 of the study
[35] See annex 3 and 8 of the study for questionnaires and detailed breakdown of responses.

• A public consultation[38][39] available on the Europa website from February until May 2018, collecting 974 answers and 113 position papers (see Synopsis report in Annex 2).

The **literature** reviewed identifies key issues affecting SMEs, although very few studies have analysed the differences between the size classes covered by the Definition.[40]

The **statistical review** had to resort to two different sources, as neither of them is able to provide information on all the criteria of the Definition. It was mainly based on:

- the Structural Business Statistics (SBS) published by ESTAT (including the most recent year for which data was available for all EU Member States - 2018)[41]
  SBS presents certain limitations: (i) up to 2008 the data sets used the classification 1-9 employees. This classification was formally changed to 0-9 in 2008, however without substantially changing the way data was collected; (ii) SBS data is not broken down on turnover (except for NACE Section G, distributive trades) and contains no balance sheet information; (iii) SBS defines SMEs solely by the number of persons employed by a single company and does not take group affiliations into consideration.
- the Orbis private database[42]

  Given the limitations above, the number of enterprises according to the two financial ceilings set by the EU SME Definition was estimated using the Orbis database, which gives access to microdata currently not available in ESTAT (turnover, balance sheet and ownership data). However, Orbis' coverage is limited, especially for micro-enterprises. Overall, while SBS overestimates the number of SMEs, Orbis is likely to come closer to the actual numbers. According to SBS, SMEs account for 99.8 % of all companies in Europe, while Orbis estimates that they represent around 88 % of the total population of companies.

The findings have further been backed by the 2020 SAFE survey[43] and the most recent Flash Eurobarometer[44] (published in September 2020). Representative figures on the consequences of Covid were not yet available at the time of drafting this document; available estimations however further confirm the conclusions.

More information on the method as well as the limitations and robustness of the findings is available in Annex 3.

---

[36] (Commission officials; Research and Executive agencies; European Investment Bank/European Investment Fund representatives; SME associations)
[37] Public authorities and agencies applying the Definition; SME associations; financial intermediaries; COSME intermediaries; venture capital/ Business angels' representatives
[38] https://ec.europa.eu/info/consultations/public-consultation-review-sme-definition_en
[39] See annex 12 of the study for detailed breakdown of responses.
[40] OECD. (2017a). Small, Medium, Strong. Trends in SME performance and business conditions.
[41] https://ec.europa.eu/eurostat/web/structural-business-statistics
[42] https://orbis.bvdinfo.com/version-2021312/orbis/Companies/Login?returnUrl=%2Fversion-2021312%2Forbis%2FCompanies
[43] https://www.ecb.europa.eu/stats/ecb_surveys/safe/html/index.en.html
[44] Eurobarometer 486 SMEs, start-ups, scale-ups and entrepreneurship 2020

6. ANALYSIS AND ANSWERS TO THE EVALUATION QUESTIONS

6.1. Relevance of the SME Definition to enterprises in the EU

To what extent is the Definition still relevant to the current needs of SMEs in the EU?

Are the three sub-categories still relevant to cover the specificities of SME classes?

As mentioned above, the Definition divides the SME population in three categories: micro, small and medium-sized enterprises.

Most of the 141 **interviewed stakeholders** found that the three size categories are appropriate and useful. Only a fifth, mainly from smaller EU Member States and Member States with higher numbers of microenterprises, argued for further segmentation to enable a more dedicated focus on start-ups, sole entrepreneurs and small scale-ups. However, it is also acknowledged that the Definition does not prevent a more targeted support to these sub-categories through national policies.[45].Also in the public consultation, the majority of respondents (62 % - 602 out of 974) agreed that the current three size categories are appropriate, with no significant differences between the different stakeholder groups (apart from the 'not SMEs[46]').

Eleven out of the 113 position papers submitted for the public consultation call either for the introduction of "very micro" enterprises (with staff headcount up to 4 persons and financial ceiling up to 1 million euros), "nano-enterprises" (financial ceiling up to € 0.5 million), or a separate category for the active enterprises with 0 employees. Three associations (two German and an international), however, argue for an enlarged micro-category, avoiding a distinction between micro and small enterprises or doubling the ceilings for the micro category (to 19 employees) to keep the incentive for micro-enterprises to grow.

In the **SME survey,** an even stronger majority (82 % - 4 656 out of 5 651) found that the current categories cover the specificities of their enterprise.

In conclusion, **the current three size categories are still seen as relevant and appropriate**. There is some demand to focus more on the smallest companies (sole entrepreneurs / companies with up to 1-3 employees), but it is also recognised that the Definition[47] is flexible in this regard and allows addressing policies and measures to those categories.

Are the current criteria still relevant to define an SME?

The criteria currently used to define SMEs are the staff headcount in combination with the financial ceilings (either annual turnover or balance sheet) and the ownership. The

[45] This issue will be discussed further in section 'To what extent did the Definition help to increase focus on micro-SMEs?'
[46] Respondents that replied 'I am not considered an SME' to the question 'What is your situation with regards to the EU SME Definition'
[47] The ceilings shown in Article 2 of the Annex are to be regarded as maximum values. Member States, the European Investment Bank and the European Investment Fund may fix lower ceilings.

flexibility to choose either turnover or balance sheet intends to cater for the differences between sectors, which have by their nature higher turnover figures (like trade and distribution), and those which tend to have higher asset level (like manufacturing).

During this evaluation, the majority of participants in the public consultation (68% - 662 out of 974) agreed that these criteria are appropriate to determine if an enterprise is a genuine SME. Across the different types of respondents, between 21 % (SMEs) and 29 % (EU level organisations) did not agree. A different pattern is found only for respondents that are 'not SMEs' (57 %).

Those that did not agree with the current criteria were asked to comment further. 285 additional comments thus focused on the ownership criterion, with 50 of them referring in particular to the restriction on public ownership[48]. A few respondents suggested different criteria, among which the most popular were 'productivity', 'degree of innovation' and 'market relevance' (not defined).

Despite the flexible use of the financial criteria, some respondents are of the opinion that the current Definition does not take sectoral or national specificities sufficiently into account.

Stakeholders from large Member States (such as Germany and France) with a relative small number of SMEs would favour higher ceilings, while those from smaller Member States where few companies do not fall within the Definition (such as the Baltic countries, Ireland, Nordic countries, Cyprus) tend to argue for lowering the ceilings.

According to Eurostat, the average turnover for companies with 250 employees not only varies greatly across the EU, but also remains well below the EUR 50 million ceiling in many Member States (see *Annex 4*). A predominance of specific sectors (either more labour- or capital-intensive[49]) in their economy can partly explain the differences between Member States.

As shown in Annex 4*,* there are substantial differences between labour and capital intensive sectors and across Member States. For example, enterprises in the Accommodation sector may need up to 1,000 employees before reaching a turnover of EUR 50 million, against 170 needed in the wholesale and trade sector. IT companies with small numbers of employees may not be particularly vulnerable whereas others in labour-intensive sectors that exceed the headcount criterion but not the financial criteria are still in a weak market position within their sector. In that respect, some respondents felt that the size of a company should be compared with its competitors in the same sector[50].

However, also other national differences in factors - such as the cost of labour and technologies - have a significant impact. Sectors that are capital intensive in one country

[48] See section '*Companies that are owned or controlled by a public body*' for more details.
[49] For a definition of labour- and capital-intensive sectors, see *Annex 4*.
[50] The tobacco industry was provided as an example: this industry is composed of a handful of very large players that have a dominant position and a number of smaller players that are not SMEs according to the current ceilings, but suffer disadvantages compared to their direct larger competitors. Also the biopharmaceutical sector highlighted its own specificities: high-risk high-volume investments over long periods of time, higher number of employees in R&D, balance sheet totals above the current ceilings, in combination with rare but then high one-time revenues (e.g. via upfront payments / milestones).

may be labour intensive in another. As an example: in Belgium a manufacturing company of about 160 employees may already have reached the EUR 50 million turnover ceiling set by the Definition, while in Bulgaria an average enterprise in the same sector will need more than 650 employees to reach the same turnover[51].

Although some stakeholders would thus favour ceilings adapted to Member States' specific economic conditions, the existing national SME definitions do not show noticeable divergences (see Annex 6).

In conclusion, while some stakeholders would favour the introduction of criteria reflecting specificities of their sector and/or (national) business environment, the majority are of the opinion that **the headcount and the financial criteria remain relevant to define an SME**. The criterion that is mostly questioned instead is the ownership criterion.

Headcount criterion and ceiling

Meeting the staff headcount ceiling[52] is obligatory and companies with more than 250 employees can never be considered SMEs.

This criterion is the most well-known and used worldwide. It is the simplest and most accessible one. Indeed, in many situations, the staff headcount is used as the main and only criterion when referring to SMEs (this is the case for example for national and European statistics).[53]

Some stakeholders point to the fact that the existence of different forms of labour contracts in the Member States and outside the EU makes it difficult to calculate staff numbers correctly and provide the justifying documents.

Although the employment criterion is easily applicable, literature highlights some limitations, including the sectoral and industry size, difficulties due to part-time work, casual work, temporary work and other innovative forms. Even within existing definitions, there is no generally agreed size, with 250 employees being the most common ceiling, although, for example, the Organisation for Economic Co-operation and Development (OECD) applies a ceiling of 300 employees.[54]

Of the stakeholders participating in the public consultation, the largest group (49% - 477 out of 974) agrees that the SME headcount ceiling is appropriate and should be kept as it is[55]. A minority call from SMEs and private individuals for decreasing this ceiling is

[51] These figures should be taken with some caution, since they provide only a rough indication of the differences between Member States, as is also reflected in the answers provided by respondents in the consultation activities discussed above.

[52] Article 5 of the Definition describes the staff headcount as the number of annual work units (AWU), i.e. 'the number of persons who worked fulltime within the enterprise in question or on its behalf during the entire reference year under consideration. The work of persons who have not worked the full year, seasonal workers and part-time workers are counted as fractions of AWU'.

[53] See also section 'To what extent is the Definition uniformly interpreted and applied by public administrations and granting authorities?

[54] Berisha & Pula, 2015.

[55] Across all stakeholder groups, 49% agree the ceiling should be kept as it is, 20% think it should be higher while 19% think it should be lower.

mirrored by the one of large companies to increase it. Amid the EU level organisations, some sectoral ones support an increase of the headcount.

Both in the position papers and among the interviewed stakeholders, the majority of contributors consider the current ceiling appropriate. Some respondents (mainly from Germany, France and Spain[56]) argue for either increasing the size ceiling (typically up to 500 employees) and/or adding a larger-size category, referred to as mid-caps.[57]

In conclusion, the headcount criterion is considered appropriate. Minorities holding a different opinion are almost evenly divided between favouring higher or lower ceilings. There is some limited criticism on the lack of flexibility with regards to the use of the criterion, as it does not accommodate more labour-intensive companies. Although the average staff headcount for the different SME categories slightly evolved since 2003, they are still well below the respective ceilings.

Financial criterion

The financial criterion is based on **annual turnover or balance sheet total**, relating to the latest approved accounting period and calculated on an annual basis. Turnover is calculated excluding value-added tax (VAT) and other indirect taxes. Enterprises need to meet only one of the financial ceilings (i.e. for SMEs in general they must have an annual turnover not exceeding EUR 50 million or an annual balance sheet total not exceeding EUR 43 million).

Literature review shows that measurement of business size by turnover is considered as most closely reflecting functional and behavioural attributes of a company, as well as cross-industry consistency[58]. Although turnover has drawbacks as a variable (e.g. due to varying financial reporting practices, and cash flow being viewed as a more relevant monitor of progress, information may not always be accurate), its magnitude is generally either available or relatively easy to extrapolate[59].

On this point, the Definition is consistent with the Accounting Directive[60] which uses the same financial parameters and defines net turnover[61] [62].

---

[56] Interestingly, in these three Member States it is not the headcount but rather the turnover that actually seems to be playing a pivotal role in excluding companies. As shown in Annex 4, the estimated average turnover of a company of 250 employees in these Member States is above the turnover ceiling of EUR 50 million set by the Definition. This indicates that already in the 50–250 employees size band, a number of enterprises are not considered SMEs in these Member States.

[57] See section on "Effectiveness".

[58] Gibson and Van der Vaart, 2008.

[59] Berisha & Pula, 2015.

[60] Directive 2013/34/EU of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC 83/349/EC

[61] Art. 2 (5) The amounts derived from the sale of products and the provision of services after deducting sales rebates and value added tax and other taxes directly linked to turnover

[62] The latter imposes on all undertakings the obligation to keep records showing their business transactions and financial position. The standard obligation is for undertakings to file balance sheet information and forward it to the business register, so that a copy should be obtainable upon application. However, Member States may permit small and medium-sized undertakings to draw up abridged profit and loss accounts using gross profit or loss and define further exemptions for micro-undertakings.

In response to the SME survey, 71 % (4 030 out of 5 651) of respondents found the financial parameters appropriate; 8 % suggested a range of alternatives, such as gross margin, cash flow, turnover/employee ratio, only turnover or suggested considering the geographical location, sector or size of the market[63]. Finally, some respondents considered that the choice between the two financial parameters allows companies with high turnover but small investments to be (unduly) considered as SMEs.

In conclusion, the majority of respondents to the SME survey confirm that **the financial criterion is appropriate to define an SME**. The financial parameters used in the Definition are consistent with those used in the Accounting Directive. Whether the ceilings are in line with the economic developments, is discussed in detail in the section "Market and economic development in key indicators" below.

Ownership criterion

The provisions in Article 3 of the Definition concerning partner and linked companies were introduced with the 2003 Recommendation to ensure that the real economic position of an enterprise is taken into account.

When checking the headcount and financial criteria, a firm that is part of a group of companies may need to include the data from the other companies in the group too. This means that both **direct and indirect relationships** (partner and linked relationships) need to be taken into account to determine if an enterprise is a genuine SME. Companies are either considered:

- *autonomous*, when the enterprise is either completely independent or has one or more minority partnerships (each less than 25 %) with other enterprises. In this case, only the data of the enterprise in question are taken into account;

- *partner*, when holdings with other enterprises reach 25 % but no more than 50 % of the capital or voting rights. In this case, a proportion of the partner enterprise's data needs to be added, equal to the % of participation;

- *linked*, when holdings with other enterprises exceed the 50 % voting rights ceiling or other relationships lead to dominant influence. In this case, 100 % of the data of the linked enterprise are taken into account.

If enterprises are linked via (a) natural person(s), they are considered a group only if they operate on the 'same relevant or adjacent market'[64]. A limited number of the interviewed stakeholders would prefer this approach also when the links occur via enterprises. Since defining the 'same relevant or adjacent market' is one of the aspects that stakeholders consider unclear, generalising this approach would seem counterproductive.

[63] 21 % didn't have an opinion
[64] A concept derived from competition law – see The Commission's notice on the definition of relevant market for the purposes of Community competition law - https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A31997Y1209%2801%29 and currently under evaluation https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12325-Evaluation-of-the-Commission-Notice-on-market-definition-in-EU-competition-law

An ESTAT microdata-linking project covering 12 Member States [65] found that in 2015 about 94% of enterprises employing fewer than 250 persons were autonomous and did not belong to an enterprise group. Medium-sized enterprises were more often part of a group than micro or small enterprises. The analysis also found that most of the non-autonomous enterprises belonged to a group which employed (in total) fewer than 250 people and they could thus still qualify as SMEs[66]. **Only 0.4% of enterprises with less than 250 employees were found to belong to a group that employed 250 or more persons.**

Analysis of the most recent SAFE survey micro database[67] suggests that in 2020, 87 % of EU companies with less than 250 employees were autonomous[68]. As expected, autonomous companies are not evenly distributed by size category: 95 % among companies with 0-9 employees, 87 % among those with 10-49 employees and 72 % among those with 50-249 employees are autonomous[69]. The quota of companies with less than 250 employees owned by other enterprises or business associates was around 11 % in 2015 and reached 13 % in 2020 (but with percentages almost doubling from one sub category to the next). A recent Flash Eurobarometer[70] finds that 38% of all SMEs surveyed are owned by one person, 50% are owned by more than one person, while close to a quarter (23%) are predominantly family owned[71]. One in twenty (5%) are jointly owned by its members (e.g. cooperative, mutual society), and the same proportion (5%) are part of a national or international enterprise group (spanning from 4% of companies with 1-9 employees to 19% of those with 50-249 employees).[72]

Stakeholders have been consulted on this issue. 51.5% (2 904 out of 5 651)of respondents[73] to the **SME survey** thought that both direct and indirect relationship should be taken into account (22 % was contrary).

---

[65] https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Statistics_on_small_and_medium-sized_enterprises#SME_definition. Reliability of its results is limited due to the geographical scope of only nine Member States. See Annex 4 for more details

[66] For Denmark 99.7 % of the enterprises have less than 250 employees, but 25.7 % of them are dependent, 22.1% belonging to a group that employs 250 people. Similarly, in Germany 99.5 % of enterprises are SMEs, but there are 7.1 % dependent SMEs. In the Netherlands, 99.8 % of firms are SMEs but only 0.8 % is dependent.

[67] https://ec.europa.eu/growth/access-to-finance/data-surveys_en
The survey covers companies with 1 employees up, 14055 replies in the EU28 in 2020.

[68] An autonomous profit-oriented enterprise, making independent financial decisions (in the sense of making independent management decisions: this includes partnerships and cooperatives).

[69] Regarding who owns the largest stake, the survey points to a stable 42 % owned by one natural person (with percentages inversely proportionate to the size of the company in terms of employees), while SMEs owned by more than one owner (e.g. family business) are at 38 % (almost evenly spread across company sizes).

[70] Eurobarometer 486 SMEs, start-ups, scale-ups and entrepreneurship 2020

[71] The option of being solely owned by one person and at the same time being “predominantly family owned” were mutually exclusive options to choose from.

[72] There are some considerable differences in ownership structure between SMEs and large companies. SMEs are much more likely to be solely owned by one person (38% vs 17% of large companies). Large companies, on the other hand, are much more likely to be part of a national or international enterprise group (21% vs 5% of SMEs). They are also more likely to be co-owned by a public entity (8% vs 1%), or to be predominantly family owned (34% vs 23%).

[73] 20 % of the autonomous SMEs did not agree with the approach compared to 37 % of the SMEs having a linked/partner/both enterprise.

This is true for even a larger majority (61% - 594 out of 974) of respondents to the **public consultation (**only around one fifth thought they should not be taken into account. Among the (48) EU business organisations, 35 % agreed to taking into account, while 44 % did not. Similarly, most citizens and SMEs in the public consultation consider the risk high of granting preferential treatment to enterprises that are not genuine SMEs. The opposite is true for the majority of other categories of stakeholders (EU level organisations, public authorities, 'non-SMEs' and 'other organisations'). National/regional associations and other organisations are almost equally split between considering the risk high versus low or non-existent.

The rules regarding partner and linked enterprises is one of the issues that attracted the most comments in the **position papers** (almost 50 comments on these rules, widely distributed across Member States and types of respondents). While the purpose and relevance of the criterion is not put into question, a large majority of the papers propose changes or call for clarification. The overall message is that the rules are not clear and can cause considerable assessment effort and legal uncertainty. Section 6.2 examines these concerns in depth.

In conclusion, most respondents to the different consultation channels are of the opinion that all ownership relationships are to be taken into account to assess the real economic situation of an enterprise and classifying it as an SME (or not). The majority of stakeholders also find this criterion to be relevant. There is a clear call for more transparency and clarity on how to apply the rules. However, in practical terms, the issue affects a limited number of cases, as the large majority of enterprises are autonomous and do not have complex ownership structures.

To what extent are the financial ceilings in line with the economic developments (notably inflation and productivity) and thus still relevant?

Market and economic development in key indicators

The Definition allows for a regular evaluation of the need for adjustment, in particular, of the financial ceilings. These ceilings were adapted in 2003 to compensate for the combined effect in inflation and productivity growth during the period 1994 to 2000.

Between 2003 and 2018, the **inflation** rose by 31.5%. **Productivity** also went up over the same period. Productivity, measured as value added at factor cost per employee[74], indicates how efficient an enterprise is. With increasing productivity, a company in 2018 is able (on average) to produce more than the same company in 2003. The average overall SME productivity[75] increased by 30 % (at constant prices) between 2003 and 2018.

[74] Expressed as "apparent productivity" and considering only value added generated by enterprises within the national boundaries. For example, value added generated by an EU company outside EU (via a subsidiary) is not taken into account.
[75] Average calculated for all SMEs.

Annual turnover

Error! Reference source not found. shows the effects of adjustments on the 2003 turnover ceilings.

Table 2 - Effects on 2003 turnover ceiling of adjusting for developments in inflation and productivity 2003-2018

Company category	Turnover ceiling 2003 (€ mill.)	Productivity increase 2003-2018	Turnover adjusted for 31.5 % inflation (€ mill.)	Turnover adjusted for productivity (€ mill.)	Turnover adjusted for both inflation and productivity (€ mill.)
Medium	50	36 %	66	68	89
Small	10	21 %	13	12	16
Micro	2	36 %	2.6	2.7	3.5

Source: "The evaluation study for the revision of the SME definition", November 2018 (Table 13) - updated with Eurostat data, ESTAT [sbs_sc_sca_r2]

Average turnover per enterprise remains significantly below the turnover ceiling for all SME categories. In 2017, the average turnover in each category of SMEs was below 50% of the ceiling. When adjusted for inflation, average turnover for micro-enterprises and small companies for 2017 shows a decrease while for medium-sized enterprises average turnover increases only slightly. This indicates that the 2003 ceilings remain valid for most SMEs.

Table 3 – Ceilings compared to average turnover

Company category	Turnover ceiling 2003 (€ mill.)	Average turnover 2003 (€ mill., 2003 prices)	Average turnover 2003 (€ mill., 2017 prices)	Average turnover 2017 (€ mill., 2017 prices)
Medium	50	16.89	21.80	22.91
Small	10	2.67	3.44	3.39
Micro	2	0.21	0.27	0.23

Data from 2017: ESTAT [sbs_sc_sca_r2] extracted on 25/06/2020
Data from 2003: SBS statistics for EU 27 and national statistics for Croatia

The average annual enterprise turnover for the whole SME population - once adjusted for inflation - decreased by about 12 % in the period from 2003 to 2017[76].

[76] This may appear counterintuitive because of the increase in productivity occurring in the same period. This is explained by changes in the population of European SMEs. An increase in productivity should correspond to a higher turnover (it could also however represent an increased efficiency, same turnover with less employees) in a single company, but this does not have to be the case for a group of enterprises in which new companies are established. Most of the newly-founded companies are micro enterprises,

Keeping the nominal values of the ceilings at 2003 levels is equivalent to lowering the real ceilings. In view of the evolution in average turnover, such approach risks affecting some companies from the medium-sized class. This is because this was the only category of SMEs in which average turnover went up[77].

Taking into account the combined impact of both factors, inflation and productivity, would require increasing the ceiling for annual turnover for SMEs from € 50 million to € 89 million. However, raising the ceilings based on the average productivity increase might negatively affect the magnitude of differences already identified between Member States and sectors (cf. *Annex* 4). It may increase the risk of attributing the SME status to enterprises not at disadvantage due to their size. This is because productivity has not changed equally across all sectors and Member States[78].

Based on a simulation of Orbis data[79], it was estimated that between 2003 and 2015 around 10,000 companies had grown out of the SME status due to the effect of inflation. As prices increase over time, more companies will gradually be excluded from the Definition.[80]

The effect of inflation affects companies that have high turnover and are close to the financial ceilings. These are mostly companies in Western and Northern Europe, where the average turnover tends to be higher than in the rest of the EU.

The distribution of the estimated average turnover across sectors shows that in some sectors companies are more likely to have larger turnover and therefore they are more likely to lose the SME status due to inflation. This seems especially the case for companies active in wholesale and retail trade (Graph 1).

and their number grew more than the number of companies in other size-categories in the period 2003-2017. The relative share of small companies in the SME population decreased by 14.4 % and the share of medium-sized businesses in the overall number of SMEs went down by 11.9 %. The decrease in average turnover stems from the fact that the productivity increase was achieved by a higher number of enterprises.

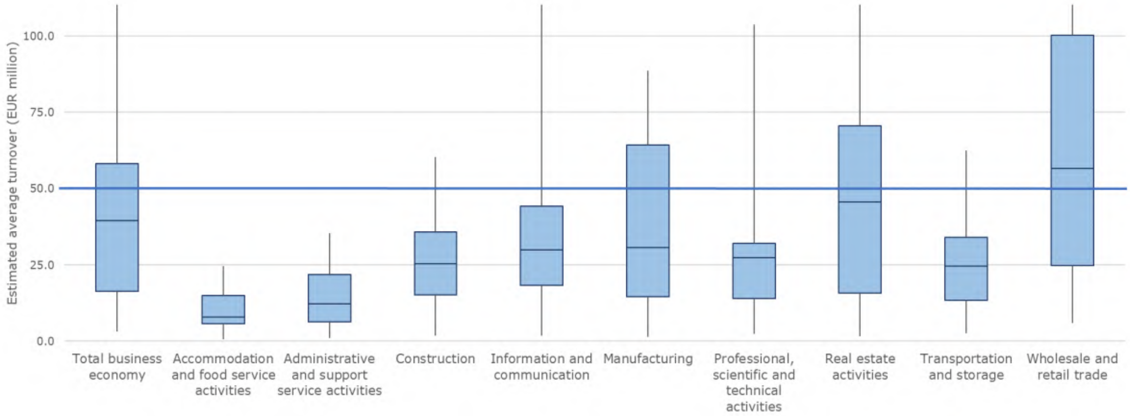
[77] As an example, an enterprise that had a € 49 million turnover in 2003 was considered an SME (if it also satisfied the rest of the criteria). If, over the years, this company's sales moved in line with inflation, it would by 2017 have a turnover around €63 million, exceeding the €50 million ceiling, and becoming a large business.

[78] Labour productivity and unit labour costs [nama_10_lp_ulc] and Annual enterprise statistics by size class for special aggregates of activities (NACE Rev. 2) [sbs_sc_sca_r2]

[79] Simulation made in 2017 in the framework of the external evaluation study.

[80] Although the projections by the European Central Bank show that inflation will be stable over the coming years. (June 2018, Eurosystem staff macroeconomic projections for the euro area) https://www.ecb.europa.eu/pub/projections/html/index.en.html

Graph 1 - Estimated average turnover of mid-sized companies with 50-249 employees (based on data of companies employing between 50 and 249 employees)



Source: VVA Calculation based on ESTAT, 2015, Annual enterprise statistics by size class for special aggregates of activities (NACE Rev. 2) [sbs_sc_sca_r2] accessed on 01/10/2018

To conclude, for every size-class (micro, small and medium) average turnover remained well within the ceiling. In none of these categories did the average turnover reach the midpoint of the ceiling. This left ample room for many, even non-average, companies to remain within their respective categories. The average microenterprise would need a (nominal) turnover increase of 952 % to grow out of its category. The average turnover of small and medium-sized businesses would need to increase by 375 % and 296 % respectively. Inflation therefore did not affect the classification of companies with average turnover levels, but was likely to drive companies with turnover close to the ceilings into the respective higher category. These companies were most likely to belong to the wholesale and retail trade sector, real estate activities or manufacturing.

In real-terms, performance of an average company in each size class remained relatively stable. For micro companies, average turnover in current prices increased by 10 %. At the same time, average turnover in constant prices decreased by 15 %, and counterbalanced the effects of inflation. For small companies, average turnover in current prices increased 27 %. At the same time, their real output remained largely the same, with average turnover in constant prices down by 1.5 %. Small and medium-sized companies registered a slight increase (1%) in the real turnover. For mid-sized companies, average turnover in current prices increased 36 %. At the same time, their real output level slightly increased, with average turnover in constant prices up by 5 %.

Therefore, the turnover ceilings remain relevant and in line with the economic developments. Though representative data on the impact of the current Covid-crisis are nog yet available, projections point to a clear decrease in turnover in 2020 and a time-lapse of a few years before reaching pre-Covid level, thus corroborating these findings.

Balance sheet total

Both in 1996 and 2003, the asset turnover ratio (turnover/balance sheet total) was used as a proxy for setting the balance sheet ceilings. This ratio is a measure of efficiency for non-financial corporations and indicates the percentage of assets covered by the annual turnover. Generally, a higher ratio implies a company's higher ability to generate sales, but the levels vary between sectors because of different degrees of capital intensity. When assessing an individual company, the comparison had thus best be made against other companies in the same sector. However, the ratio's (for all SMEs) changes over time provide an indication of changes in the relationship between the financial ceilings used in the SME Definition: turnover and balance sheet.

The data on asset turnover (table 4) comes from the Bank for the Accounts of Companies Harmonized (BACH) database[81]. Despite its limitations, the database is one of the best sources of the required data[82].

Table 4 Asset turnover ratio (ratio of turnover to balance sheet), 2003 and 2014

Category	2003	2014	% change
Small	0,94	0,67	-28,7 %
Medium	1,13	0,96	-15,0 %
SMEs	1,04	0,79	-24,0 %
Large	1,01	0,98	-3,0 %
All	0,91	0,79	-13,2 %

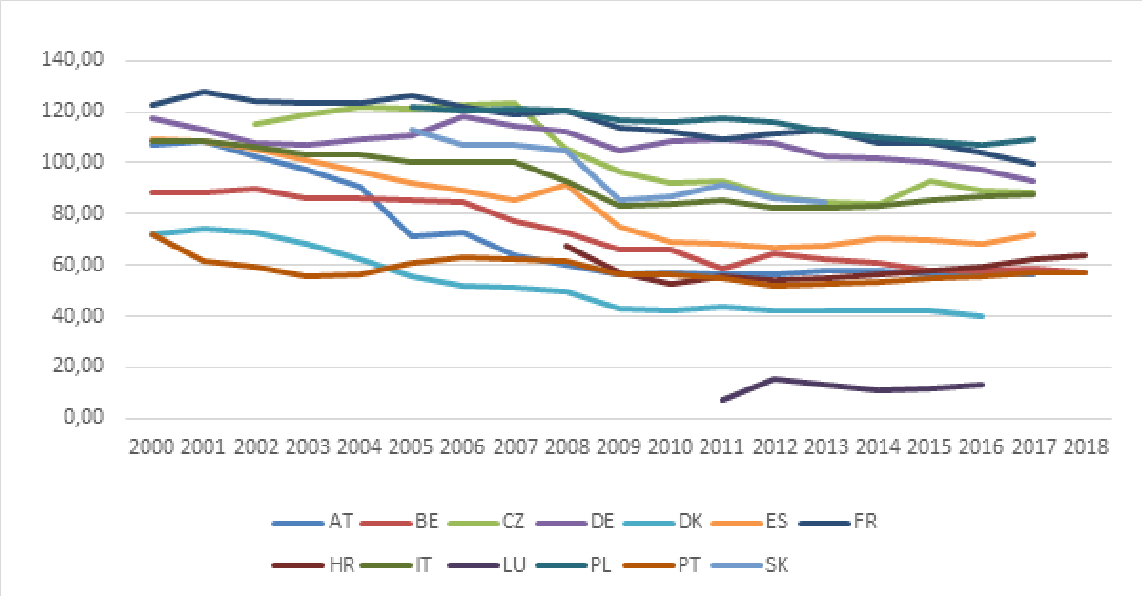
Source: BACH database, http://www.bach.banque-france.fr/?lang=en

The asset turnover ratio for SMEs decreased during the period 2003-2014. According to a 2016 BACH report[83], in 2009, all of the countries covered by the database registered a decrease. It ranged from 5 percentage points in the Netherlands to 33 percentage points in Poland, and remained stable till 2014, when the ratio was below its 2008 value. The decline between 1994 and 1999 was ascribed to a structural change and an increased capitalization of SMEs, related to investments in ICT. The 2009 decline, however, is more likely to reflect the loss of turnover due to the financial crisis and the subsequent lag in recovery.

[81] http://www.bach.banque-france.fr/?lang=en

[82] The data in the database is not fully representative for the entire EU. It also does not provide a segmentation on micro-enterprises, but only on small and medium-sized enterprises. The data available for 2015 is not comparable with the 2003 data. For that reason, data for 2014 is used.

[83] BACH (2016): Outlook no. 4. European non-financial corporations from 2007-2014, The European Committee of Central Balance-Sheet Data Offices (ECCBSO)



Graph 2 - Asset turnover ratio in small and mid-sized companies stabilised after 2009 and started going up in 2014; Source: BACH database

Average turnover in real terms for small and mid-sized companies has remained stable over the years 2003-2017 (-1.5 % and +5 % respectively, see table 3). It is unlikely that these companies, which maintained stable real-terms levels of sales, needed to sustain significant investments in their asset base.

Estimating actual levels of total balance sheet per size-class is difficult due to limitations in coverage and reliability of data. Databases such as BACH or Orbis fail to adequately capture SMEs and their coverage of microenterprises is the least-well developed.

Taking inflation into account would entail the 2003 balance sheet ceilings to be adjusted. The ceiling for microenterprises would thus be set at € 2.6 million, the limit for small companies at € 13 million, and the limit for mid-sized companies would thus reach € 66 million.

A simulation based on Orbis data[84] estimated that between 2003 and 2015, some 10,000 companies grew out of the SME category because of inflation, which is a very modest figure compared to the overall number of 25 million of EU's SMEs.

The levels of the asset turnover ratio have stabilised in recent years. Changes in inflation appear to have a limited impact on the population of companies moving from medium-sized to large scale. Therefore, there does not appear an immediate need to adjust the balance sheet ceilings.

Interviewees overall considered the Definition ceilings to be relevant and adequate and that they should be maintained, with a small share of them suggesting an adjustment of financial ceilings due to inflation[85]. Stakeholders supporting the view that financial ceilings should be adjusted are mainly SME associations and public authorities.

[84] Simulation carried out by VVA in 2017.

[85] Respondents to both the public consultation and SME survey were not presented with the adjusted ceilings in nominal terms, but they were only asked from a theoretical point of view.

Among the **SME Survey** respondents, 40 % (2261 out of 5651) found that the financial ceilings should reflect both inflation and labour productivity, while 22 % (1195 out of 5651) thought that the ceilings should not be raised. The support for only considering either labour productivity (2.3%) or inflation (6.4%) was not large. The participants in the **public consultation** were asked the same question, and the responses broadly reflected those from the SME survey, apart from national organisations/associations where 42 % support the status quo against 30 % who call for adjusting them taking into account both inflation and labour productivity.

Stakeholders are divided on whether this would increase the risk of granting SME status to companies who do not face disadvantages due to their size, with a tendency towards stating that raising the ceilings would indeed imply such a (high or limited) risk.

Summing up, the opinions of stakeholders are divided, but the analysis of economic developments confirms the sustained relevance of the current ceilings.

6.2. Effectiveness

To what extent has the SME definition achieved its aim of identifying the enterprises most confronted with competitive disadvantages because of their size?

The Definition was developed to identify the enterprises that are affected by size-related challenges, so that policies could be targeted more effectively to redress their competitive disadvantage vis-à-vis larger enterprises. Despite being a Recommendation, the Definition is widely used and referenced in various EU legal acts, policy documents and intervention guidelines.

Between 2003 and 2018, SMEs and large companies evolved in a different way (see also Annex 4):

- At EU level, SMEs increased their number by 31 %, the number of persons employed by 9 % and their productivity by 30 %, but decreased their average annual enterprise turnover (adjusted for inflation at 2017 prices) by about 12 %.

- Large companies increased by 5.3 % in terms of number of companies, by 18 % in terms of persons employed and increased their average turnover adjusted for inflation at 2017 prices by 16 %. Their increase in productivity exceeded that of SMEs, with 40%.

A Eurofound study[86] identified both internal and external obstacles to economic growth in SMEs. Internal obstacles include their economic performance, lack of strategic planning, low capacity to internationalise and innovate, inefficient organisational structure and management capacity, difficulty in attracting workers, as well as low motivation and attitudes of owners/managers. External obstacles include the administrative and institutional business environment, the macroeconomic situation, competition from larger or multinational companies, and high labour costs accompanied by low availability of a skilled workforce.

[86] Eurofound. (2016). Job Creation in SMEs, ERM Annual report 2015.

The most recent Eurobarometer survey[87] shows that the biggest problems of SMEs are regulatory obstacles or administrative burden (cited by 55% of respondents), followed by payment delays (35%), poor access to finance (21%) and a lack of skills (17%). 62% of EU SMEs confront barriers to digitalisation. According to the survey, the biggest problems SMEs face in this area are uncertainty about future digital standards (response of 24 % of respondents) and a lack of financial resources or regulatory obstacles (both answered by 23 % of respondents). Although the digital transition of SMEs may be a temporary challenge for some of them, it is at the same time an important enabler enhancing SMEs' capacity to grow, innovate and go international. 70% of EU SMEs face also at least one obstacle that prevents their enterprise from becoming sustainable. Furthermore, 42% of SMEs say that the availability of support to help enterprises become more sustainable is poor. The SME Strategy for a sustainable and digital Europe which covesr all types of SMEs and supports them in their transition to a digital and green economy[88], is particularly relevant in this context.

The majority of stakeholders in all data collection activities confirm that the Definition has been **generally effective in its aim of identifying the enterprises most confronted with disadvantages due to their size**. The three size categories of the Definition (micro, small and medium-sized enterprises) are appropriate and useful and most Member States apply them in their national definition.

Stakeholders that do not fully agree, generally refer to the ceilings (headcount, turnover, balance sheet) as being either too high or too low (mainly due to considerations based on the differences between sectors and, in some cases, between Member States,) or to the so-called "grace period"[89]. The *Relevance* chapter discusses the issue of the update of ceilings in more detail.

The great majority (78% - 760 out of 974) of respondents[90] to the **public consultation** agree that the Definition allows the identification of enterprises facing potential market failure and particular challenges due to their size, with less than one fifth (18%) in disagreement (especially non-SME enterprises and private citizens). That said, there is no clear agreement on whether the size ceilings are appropriate (specifically for the headcount ceiling). As can be seen in section *Headcount criterion* and , almost equally sized minorities would favour either higher or lower ceilings.

Some respondents, particularly from Germany and France, argued for the introduction of a larger-size category, referred to as mid-caps, small-big enterprises or SME+. German interviewees argued for following the German "Mittelstand" ceilings which better reflect their industrial structure. Similarly, some French interviewees pointed to the need to add companies that are counted as a separate, intermediate group in the French context (ETIs – Entreprises de Taille Intermédiaire). A Spanish interviewee argued that *"The main*

[87] Flash Eurobarometer 486

[88] https://ec.europa.eu/digital-single-market/en/news/sme-strategy-launched-european-commission

[89] Article 4 of the Definition states that when an enterprise exceeds or falls below the headcount or financial ceilings, this will not result in the loss or acquisition of the status of medium-sized, small or microenterprise unless those ceilings are exceeded over two consecutive years (accounting periods). This is often referred to as the 'grace period'.

[90] Based only on answers from respondents who are familiar with the EU SME Definition (N=747).

weakness of the definition in this sense is that, by exclusion, it considers all non-SMEs in only one group (as 'large' enterprises). In the case of Spain, this approach does not match the enterprise tissue […] as Spanish "small-big" companies are in vulnerable conditions against multinationals." The interviewees in favour of increasing the size ceiling and/or adding an extra size category tended to argue that mid-caps have a great potential for return on investment, i.e. job creation and added value, while any effects of skewing competition through support to these companies would be limited.

About half of the 141 interviewees thought that the definition covers disadvantaged enterprises adequately, while a quarter had some reservations and the rest did not provide a clear answer. Especially stakeholders from smaller Member States and from Eastern Europe highlighted that, even though the Definition is very broad, it has different coverage in the Member States: where the market structure is characterised by labour-intensive sectors, for example in Portugal and Poland, almost all companies up to 250 employees fit under the financial ceilings due to their relatively low turnover/balance sheet. The opposite is true in Member States with more capital-intensive companies such as Ireland or the Netherlands – although even in these Member States there are differences between sectors, as some sectors are inherently more labour-intensive[91].

In conclusion, the Definition is **generally considered effective in identifying the enterprises most confronted with disadvantages due to their size,** even though there is no clear agreement on whether the ceilings are appropriate, due to the lack of a sectoral approach and/or of adequacy for the national specificities. Some stakeholders also point to the need for recognition of the mid-cap enterprises as a separate category, distinct both from SMEs but also from large companies.

Companies that are owned or controlled by a public body

According to the Definition (Art. 3.4.), an enterprise in which a public body controls, individually or jointly with other public bodies, more than 25 % of the capital or voting rights is not considered an SME[92]. There is an exemption for participations from very small local authorities (up to 5000 inhabitants)[93], which can own up to 50 % of an enterprise (see Art. 3.2).

In Europe the scope of public ownership in various sectors of the economy is particularly relevant in a number of Member States such as France, Croatia, Italy, Poland, Romania, Slovenia and Sweden, Finland and to a lesser extent in Belgium and Latvia[94].

Many of these companies deliver critical services in economic sectors such as utilities, finance, and natural resources[95]. This is particularly the case for the so-called 'Local Public Services Enterprises' usually public utilities and public housing companies.

---

[91] See annex 4 for comparisons between Member States and sectors.
[92] See in this context case C-516/19 NMI Technologietransfer on the concepts of "public body" and "control"
[93] ESTAT data on Local Administrative Units (LAU) show that there are some 87500 of such very small local authorities with under 5000 inhabitants within the EU.
[94] State owned enterprises in the EU : Lessons Learnt and Ways Forward in a Post-Crisis Context- https://ec.europa.eu/info/sites/info/files/file_import/ip031_en_2.pdf

It is estimated that there are about 25 000 Local Public Services Enterprises in the EU employing 1.6 million people[96] (an average of 64 employees per enterprise). Unfortunately, specific statistics on SMEs with public ownership are missing. A recent Flash Eurobarometer[97] finds that 1% of EU SMEs were co-owned by a public entity in 2020. This percentage increases with the size of the company (3% for small SME, 4% for medium and 8% for large companies) and tends to be higher in some Member States (CZ, BE, LU, SK, IE, HR, PL).

Some more detailed information on these types of companies is available at national level; for instance, in Italy[98] 92% of public participations come from local authorities; 42% of the invested companies have public participation below 50%, while it can be roughly estimated that 30% of those participations remain below 25%; 68% of publicly-owned companies had between 1 and 249 employees (accounting for only 36% of the total employed by publicly-owned companies)[99].

In case of public ownership beyond the set ceilings, these LPSE are excluded from funding programmes or some administrative burden reduction measures reserved for SMEs. The logic behind the rule is that public ownership may provide advantages in public tenders or other types of support from the public owner. Indeed, in the Flash Eurobarometer survey mentioned above[100], these companies indicated experiencing less problems compared to other SMEs, especially with payment delays (17% vs 35 % for all SMEs) and access to finance (16% vs 21% for all SMEs). Furthermore, they are also the ones most confident that they can obtain external financing in case of need (76% vs 70% for all SMEs), that judge most positively their business environments in term of access to and collaboration with business partners (79% vs 62 % for all SMEs), access to private and public funding (61% vs 50% for all SMEs) and quality of support services (66% vs 49% for all SMEs). They are also most positive about the availability of support to become more sustainable.

A full analysis of the benefits that can be derived from public participation is not possible because the governance rules of these companies vary enormously across Member States and across the different forms of Private-Public participations.

During the **interviews**, mainly stakeholders from Member States (in particular France and Germany), where these forms of Local Public Services Enterprises are widely used, raised the issue. Five associations representing publicly-owned enterprises thus argue that Local Public Services Enterprises in effect operate in competitive markets and face the

---

[95] https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/ifc+cg/topics/state-owned+enterprises

[96] Fed Epl/CEEP. Panorama des epl en Europe 2014

[97] Flash Eurobarometer 486 SMEs, start-ups, scale-ups and entrepreneurship 2020

[98] In 2016 there were 5693 publicly-owned companies with a total of 32427 total participations (direct and indirect). With reference to 2011-2015, 61% were profitable and 34% registered losses. http://www.dt.mef.gov.it/export/sites/sitodt/modules/documenti_it/programmi_cartolarizzazione/patrimonio_pa/Rapporto_sugli_esiti_della_Revisione_straordinaria_DEF_maggio_2019.pdf

[99] 27% had no employees, 36% had 1-9 employees, 21% had 10-49 employees, 11% had 50-249 employees, while 4% of publicly-owned companies had more than 250 employees (accounting for 64% of the total employed).

[100] Flash Eurobarometer 486 SMEs, start-ups, scale-ups and entrepreneurship 2020

same difficulties as privately owned companies, and should thus not be excluded from SME status[101].

In the **public consultation**, opinions on Local Public Services Enterprises were divided: almost half of the respondents agreed that the ceiling is appropriate, while two fifths disagreed. Only a few respondents stemming purely from publicly-owned companies, non-SMEs and national/regional public authorities, see no or little risk when asked if raising the ceiling for control by a public body would entail a risk of attributing the SME status to companies that are not genuine SMEs. Most of the other stakeholders sustain the opposite.

Analysis of the position papers showed that 19 (out of 113) documents (over 25 that mention the topic and mostly from German Local Public Services Enterprises) argued against the rule limiting public ownership (four of them were identical), which they consider discriminating. It was mentioned that Local Public Services Enterprises are excluded from EU support under SME instruments in the Structural Funds or research and development area, from SME treatment under REACH[102] or in the context of the Energy Efficiency[103] Directive (2012/27/EU), where SMEs are exempted from compulsory energy audits. Administrative burden was highlighted as a particular concern. On the other hand, five papers (from various Member States and different types of organisations and individuals) argued for keeping the limitation, among other reasons because of the special advantages that can be derived from being financed by public entities. One position paper suggested raising the size of the small local authorities that fall under the exception of art. 3.2. to 10000 inhabitants.

A little over 2 % (117 out of 5 651) of the **SME survey** participants represented companies controlled (directly or indirectly) by a public body. Among these, 35 % share the opinion that the rule limiting public ownership is not appropriate, while 17 % think it is and 48 % do not have an opinion. However, among all survey respondents, 34 % (1 978 out of 5 651) considered this provision appropriate, 11 % did not consider it appropriate, and 54 % did not have an opinion.[104]

Overall, stakeholders tend to be in favour of maintaining the limitation on public ownership.

To conclude, although these companies face some of the same challenges as SMEs - due to their small size - such as regulatory burdens, they also enjoy advantages that privately-

[101] Interviewed stakeholders that did not represent public companies, did not mention the issue.

[102] https://ec.europa.eu/environment/chemicals/reach/reach_en.htm

[103] The application of the Energy Efficiency Directive (EED) seems to be of particular concern to this group of enterprises that – as non-SMEs - face heavier requirements regarding energy audits and efficiency for instance. The Commission is currently conducting a study on how the Member States apply the Definition in the context of the EED (especially art. 8) and whether there are alternatives for a definition that would be more appropriate in the given context. The outcome of this study could clarify whether there is a need for adjustments to deal with the issue of the LPSEs and, if so, whether these should be made to the Definition or rather to the EED itself.

[104] Question 18: Currently, enterprises where a public body controls a more than 25 % share are not considered an SME. Do you think this provision is appropriate?

funded SMEs do not have: financial security[105], in many cases lower requirements for profitability, or the benefit (local utilities companies for example) of operating in a monopoly or near-monopoly. This is also reflected in the responses to the Flash Eurobarometer survey. Furthermore, numerous EU funding and financial supporting schemes are available for these companies as they are not reserved for the SME market. The current rules related to publicly owned companies therefore seem to strike a fair balance and are deemed appropriate by a majority of stakeholders.

To what extent is the Definition clear and easy to use, providing legal certainty, and uniformly interpreted and applied?

In parallel with the 2003 Recommendation, the Commission published a User guide to the SME Definition to accompany the Definition and provide practical guidance on its application. Following an evaluation in 2014, the guide was reviewed in 2015 and recently updated in 2020. It explains, step-by-step, how to determine if an enterprise can qualify as an SME[106] and is based on case law and standardised practice. In the interviews, five respondents called for even further improving the guidelines and tools.

According to the SME survey and public consultation, stakeholders consider the Definition as **generally clear, but with some exceptions,** especially concerning the rules on ownership and concepts related to them[107].

Also, the pre-requisite of ***'economic activity***' (to qualify as an enterprise) seems to pose an interpretation issue. A small number of interviewees mentioned that, in particular for self-employed and one-person companies, but also for associations, it is not always clear if their activities are to be considered as 'economic' and they are thus an enterprise that would fall under the scope of the Definition.

About a third of the interviewees referred to the complexity of Article 3[108] concerning **partner and linked companies** as a barrier to the effective application of the Definition.

---

[105] Access to capital or the extent to which the public owner will support the LPSE in financially difficult situations.

[106] It is available from the Commission website in all EU languages and aims at both enterprises applying for grants or loans, as well as at government officials working with the application process for the various schemes.

[107] Almost half of the interviewees stated that the Definition is overall clear, while about a quarter considered it not clear at all (in particular among the financial intermediaries and the SME associations).

The vast majority of interviewees indicated that the criteria are fairly unambiguous. Four of them (of different types and from different Member States) pointed out the difficulties in calculating the 'number of employees'. Member States have many different types of employment contracts and, as there is no common understanding or definition of an employee at EU level, the Definition implicitly refers to national legislation. Furthermore, interviewees consider the issue of temporary and freelance (self-employed) workers as both unclear and as a way for companies to circumvent the rules and stay below the employment ceiling. A European definition of “worker” was proposed by the Commission in late 2017 (Commission’s proposal for a new Directive for more transparent and predictable working conditions across the EU, http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=9028)

[108] Linked enterprises refer to relationships where an enterprise holds a majority of the voting rights in another enterprise or in other ways can exert a control or dominant influence. Partner enterprises are enterprises which are not linked, and which hold 25 % or more of the shares or voting rights (whichever is higher) of another enterprise.

It is seen as leaving too much room for interpretation, creating legal uncertainty and leading to administrative burden and significant related costs, both for SMEs and managing authorities. Several interviewees pointed to the difficulty to interpret '***dominant influence'*** or '***adjacent markets'.*** The latter is used in the Definition in connection with majority ownership by natural persons[109] and was mentioned by five respondents - both terms build on Community competition law[110] [111].

As mentioned above, there were four Court cases[112], where the Court encouraged the application of the 'spirit' of the Definition. Even if the judgments thus challenged the Commission's longstanding interpretation of the Definition at that time, this would only be relevant in a very limited number of cases[113] [114]. Nevertheless, a number of interviewees (from all stakeholder groups) identified these General Court rulings as pointing to an issue with respect to interpretation and legal certainty.

Three public consultation position papers referred to the situation of **mergers and acquisitions**[115]**.** Following the 2010 State Aid Twining case[116], the Commission took the position that the 2-year rule should be interpreted teleological (intention of the legislator) and not literal (wording), which means that an SME taken over by a large enterprise can no longer benefit from the SME status for two consecutive years[117]. The position papers

---

[109] They are considered linked enterprises "if they engage in their activity or in part of their activity in the same relevant market or in adjacent markets."

[110] Commission consolidated jurisdictional notice under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:095:0001:0048:EN:PDF

[111] The Commission's notice on the definition of relevant market for the purposes of Community competition law - https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A31997Y1209%2801%29 and currently under evaluation https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12325-Evaluation-of-the-Commission-Notice-on-market-definition-in-EU-competition-law

[112] Cases C-91/01 Italy v Commission - T-137/02 Pollmeier Malchow v Commission - C-110/13 HaTeFo - C-53/17 Bericap, Case C-516/19 NMI Technologietransfer, paragraphs 31-34, as well as COMMISSION DECISION of 7 June 2006 on State Aid No C 8/2005.

[113] See section on ownership criterion

[114] Although in the context of this study no data have been collected on the prevalence of autonomous companies in the different Member States or sectors, the Chemicals Agency mentioned that they have a noticeable rate of applicants with complicated ownership structures.

[115] Within the EU, (cross-border) merger and acquisition activity involving SMEs has been relatively robust over time, with an estimated average of 642 transactions that took place per year between 2008 and 2017 and an estimated average value for cross-border SME M&A deal within the EU of EUR 6 million - Annual Report on European SMEs 2017/2018.

[116] Twining and Company Sp z.o.o. had applied for a grant under a Polish ERDF Operational Programme and based their application on a claim that they had SME status. The Definition allows an enterprise to maintain its SME status when it moves above the ceilings in one year, but then falls back into the SME category the following year. In practice, this was interpreted as meaning that an enterprise had to exceed the ceiling for two consecutive years before it lost its SME status. However, based on Case C-91/01, Italy vs Commission, and Case T-137/02, Pollmeier, the position of the Commission's services, was that the relationship with Twining UK parent was such that Twining and Company Sp z.o.o were no longer autonomous, but part of a large firm (i.e. linked) and could not be considered an SME. This case thus clarified that an enterprise that is taken over by a large corporation should not be allowed to retain SME status for the following two years but that it immediately loses the SME status. See also: CSES (2012): Evaluation of the SME Definition, Final Report

[117] This view is expressed also in the user guide to the SME Definition, page 14 "The purpose of Article 4.2 of the SME Definition is to ensure that enterprises that experience growth are not penalised with loss of SME status unless they exceed the relevant ceilings for a sustained period. In line with this intention,

argued it should be clarified in the Definition itself that enterprises exceeding the relevant SME ceilings due to a change of ownership are not entitled to make use of the 2-year "grace period". It follows from the same logic that enterprises that have been divested from a larger group, and thus went through a permanent structural change, should not be excluded from the SME status for two years by the same two-year rule in Article 4(2) of the SME Definition[118].

In conclusion, despite the Definition being considered **clear in most cases**, some stakeholders would welcome the clarification of certain concepts - in particular regarding the rules on ownership and how to document the necessary information in case of complex ownership structures (Article 3 and Article 6)), while bearing in mind that the only binding interpretation of the Definition can be provided by the Union Courts.

To what extent is the Definition uniformly interpreted and applied by public administrations and granting authorities?

In the **stakeholder interviews**, almost half of the respondents were of the opinion that the definition is uniformly applied, an equal share did not have an opinion or were not sure – most gave the reason that they do not have knowledge of how the Definition is applied elsewhere. The most positive group was the SME envoys, with two-thirds agreeing that the Definition is uniformly interpreted, while the national agencies (particularly the financial intermediaries) were the most negative. A small minority of the interviewees thought the Definition is not uniformly applied. Those stakeholders that expressed concerns mainly attributed them to the interpretation of the rules on partner and linked enterprises.

The issue raised by this minority of interviewees is well illustrated by the following quote from an interview with a financial intermediary: "*We have noted discrepancies between the European Commission and our administrations in the identification of certain small and medium-sized enterprises. [...]There may even be different interpretations between public institutions in the same country. [...] For example, what does "institutional investor" mean? What is meant by "dominant influence"? In our case, we sometimes have different interpretations between our agency, companies, and the Ministry of Economy.*" This was confirmed by other interviewees (mostly national agencies) that pointed out how different institutions may indeed interpret the Definition differently.

For example, regarding the Regional Development Funds' management, national/regional authorities should verify the SME status during the selection of

Article 4.2 does not apply in the case of enterprises that exceed the relevant SME tceilings as a result of a change in ownership following a merger or acquisition, which is usually not considered temporary and not subject to volatility."]

[118] In this context see also Case T-745/17 Kerkosand, EU:T:2020:400, paragraphs 87-98, where the General Court followed a literal interpretation of Article 4.2 of the SME Definition, contrary to the *effet utile* or teleological one expressed in the user guide to the SME Definition, page 14. Still, this judgment needs to be applied together with the *effet utile* requirement following from the case law, cited above, that only enterprises that suffer from the handicaps typical of an SME should be entitled to the advantages deriving from that status.

operations and national auditors should audit it on a sample basis. The national authorities define the approach and detailed procedures for this verification. The European Commission can perform audits on both the approach/procedures applied, as well as on the SME status of audited beneficiaries. Issues detected by Commission auditors concern both aspects[119].

To conclude, while the general opinion is that the application is overall homogeneous, evidence suggests that the current measures do not avoid that **complex company structures receive different assessments because of doubts on how to apply the rules**. There are difficulties in applying key terms[120] and the rules contained in Article 6.

To what extent did the Definition help increase focus on micro-SMEs?

Micro-enterprises are key to the European economy and constitute the large majority of European enterprises. Statistics show that since 2003, there has been a 33 % increase in the number of companies with less than 10 employees in the EU, reaching 22.9 million in 2018. Among the new companies created every year in the EU, between 15% and 100% are set up by self-employed[121].

Micro-enterprises are not a homogeneous group. In 2016, 30.6 million individuals were self-employed[122] [123] and accounted for 14 % of total EU employment[124], spanning from 7.7 % in Denmark to 29.5 % in Greece. 71.5 % of those self-employed did not have employees, with great differences among Member States (from 52.3 % in Hungary to 93.6 % in Romania)[125]. A 2017 report by Eurofound[126] shows that roughly one in four self-employed are characterised by economic dependence (i.e. working mainly for one company), low levels of autonomy and financial vulnerability.

The issues relating to self-employment are thus complex and were brought up by a few **interviewees**. They referred amongst others also to companies that sub-contract workers

[119] E.g. relying exclusively on self-declarations of the beneficiaries without any further verification, sample of beneficiaries selected for verification that is not adequate/justified, verifications carried out that do not cover all the required aspects / levels of links between the enterprises, etc.

[120] Examples: enterprise in question, Venture Capital Company, institutional investor, business angel, dominant influence, control - including joint control by public bodies, adjacent market.

[121] Figures from SME Performance Review 2016. Data are available only for Belgium, Cyprus, Czech Republic, Estonia, Finland, France, Greece, Hungary, Ireland, Lithuania, Luxembourg, Malta, Poland and the United Kingdom

[122] Eurostat defines self-employed as persons "who work in their own business, farm or professional practice. A self-employed person in considered to be working if she/he meets one of the following criteria: works for the purpose of earning profit, spends time on the operation of a business or is in the process of setting-up his/her business".

[123] The level of EU-28 self-employment increased by about 6% from 2000 to 2016. Between 2000 and 2007, the level of self-employment rose steadily. However, during the financial crisis, it fell. Since 2013, the level of self-employment has remained broadly stable

[124] Total employment in a firm and in an economy comprises employees and self-employed persons.

[125] Among the drivers explaining these differences between Member States, the Annual Report on European SMEs 2016/17 identifies some characteristics of the population (education levels, age, proportion of women), the average employees compensation and personal tax rates, the average working hours as well as the existence of regulatory exemptions/derogations for the self-employed.

[126] https://www.eurofound.europa.eu/publications/report/2017/exploring-self-employment-in-the-european-union

instead of outright employing them, in order to circumvent the rules and keep their SME status.

There is evidence that the inclusion of the category of micro-enterprises in the Definition has increased the focus on their special needs. Several EU legal acts (e.g. in the Agriculture and Fishery Policy area)[127] distinguish between the size categories of the Definition, and **prioritise micro-enterprises in the context of EU support**. Micro-enterprises are also prioritised in the context of accounting requirements (the Accounting Directive), as they should be exempted "*from certain obligations applying to small undertakings that would impose excessive administrative burdens on them*". Both the European Chemicals Agency and the European Medicines Agency offer reduced fees for the different categories of SMEs, with larger reductions specifically for micro-enterprises. These examples are in line with the Commission's Better Regulation policy to exempt micro-enterprises from EU legislation wherever possible or to introduce special regimes so as to minimise the regulatory burden on them[128].

There is general agreement among the **interviewed stakeholders** that the **acknowledgement of micro-enterprises as a separate category is very useful**. Some respondents felt that there should be even more policy focus on this category, particularly in the national context.

To conclude, the inclusion of the micro category in the Definition **has contributed significantly to an increased focus on micro companies in EU legislation,** while more could be done at the national level. A minority of stakeholders find that there is a need to even further sub-divide the micro category to cater for the self-employed and solo-entrepreneurs.

To what extent has the Definition limited the proliferation of definitions of SMEs in use at EU and national level?

Among the respondents to the public consultation, 94% agreed that the EU SME definition helps to limit proliferation of different definitions at European and national level.

Therefore, even though the Definition is not binding, almost all Member States either apply it fully or use the same structure and main features in their national definitions. Only a few apply lower financial ceilings for the micro sized-class or introduced an additional category for mid-sized companies. The financial sector in particular tends to use definitions adapted to their area of operations. However, overall there is consensus that the Definition has limited the proliferation of definitions of SMEs in use at EU and national level.

[127] In the agricultural sector, for example, Regulation (EC) No 1974/2006[127] aims at providing support to the creation and development of micro-enterprises specifically. It is also stated that the intensity of the aid can vary according to the size of SMEs: 60 % of the eligible costs for medium enterprises and 70 % for the two other categories. Additionally, in the fishery sector, aid is prioritised for SMEs for certain measures (Regulation (EU) No 508/2014).

[128] European Commission, Better Regulation Toolbox, Guidelines on Impact Assessment, http://ec.europa.eu/smart-regulation/guidelines/docs/br_toolbox_en.pdf

6.3. Efficiency

Policymakers use the Definition in a large number of policy areas to focus specific interventions or grant favourable treatment in EU legislation. Where EU policies or legal measures are concerned, public entities (e.g. EU agencies, institutions and national/regional managing authorities) must use the criteria and rules as defined by the Definition. At the same time, the applying enterprises have to go through the assessment process to be entitled to the benefits reserved for SMEs. Both managing authorities and enterprises bear costs to undertake the assessment of SME status. Costs described in this section solely relate to the process of undergoing the SME status verification and not the full application process to obtain aid or support.

To what extent did the benefits deriving from the Definition exceed application costs?

What are the main costs and benefits for the different stakeholders?

SMEs

This section analyses the burdens (costs) of undertakings associated with proving their SME status and is mainly based on the SME survey responses of those that had to prove their status at one point in time[129]. One should note that it is sometimes difficult for the respondents to differentiate between the costs borne for proving the SME status and those related to the overall application procedure they were going through.

The responses to the SME survey confirmed that the great majority of autonomous SMEs across the different size categories do not find the SME assessment burdensome. Ownership structure has an impact on the level of complexity and the perceived burden of the procedure and appears to be the key cost factor of the SME assessment. Thus, among SMEs having a partner enterprise, linked enterprise or both, the shares of respondents that find the process not burdensome are much lower (see table 5).

[129] Companies who did not reply "I never had to prove I comply with the EU SME Definition" to question 9 of the SME survey are excluded from the cost analysis.

Table 5 - Share of respondents that consider proving to be an SME not burdensome at all (by ownership)

	Population	Respondents that consider the Definition "not burdensome at all"	
		Number	%
Respondents that have applied the SME definition	2522	1956	78%
Autonomous	*2111*	*1713*	*81%*
Non-autonomous	*411*	*243*	*59%*

Source: SME Survey – see annex to the external study [130]

Enterprises that are part of a group have to collect and provide evidence of the characteristics of their linked and partner companies. A small share of SME associations, public authorities and national agencies highlighted that this is even more the case for partner and linked companies operating abroad and if the information has to be requested from other countries (another Member State or a third country).

The size of the company (in terms of number of employees) has a modest effect on the quota of non-autonomous companies considering the SME definition not burdensome[131], while there is no effect for autonomous companies. This could be explained by the fact that medium-sized companies are more likely to have related companies[132] and more complex structures.

Resources spent by SME to prove the SME status

According to the SME survey, **on average, SMEs spend less than one man-day (6.5 man-hours) to collect and provide information to prove their SME status.** 75 % of the smaller enterprises need up to half a man-day to complete the procedure, while only 64 % of the larger companies manage to do so in the same time. As noted above, **ownership and its complexity** tend to increase with the size of the company: 75 % of autonomous enterprises need up to half a man-day to go through the process, compared to only 52 % of enterprises that are part of a group.

[130] Question: Cross-tabulation 10. How burdensome was it for you to provide proof that you are an SME? (only those who did not reply "don't know"); 8. What is your situation with regards to the EU SME Definition?

[131] 60 % of companies with 0-9 employees, 61 % of companies with 10-49 employees, 55 % of companies with 50-249 employees.

[132] Considering only the replies of companies having applied the SME definition, 90% of companies with 0-9 employees declared being autonomous, against 80% for companies with 10-49 employees and 72% for those with 50-249 employees.

Table 6 – Distribution of replies of autonomous and non-autonomous by time to prove SME status in man-days[133]

Time to prove SME status	Autonomous SME	Non-autonomous SME
Less than half a day	75%	52%
Between half a day and a day	12%	20%
Between 1.1 and 2 days	6%	13%
Between 2.1 and 5 days	3%	8%
Between 5.1 and 10 days	2%	5%
Between 10.1 and 20 days	1%	2%

Source: SME Survey[134]

Table 77 below provides an overview of the employer expenditure incurred by SMEs in the different size categories and according to their ownership structure. Overall, 73 % of autonomous respondents spend less than EUR 150 in total costs, against 55 % of non-autonomous ones; 62 % of respondents declared to have had only *staff costs* (63 % of autonomous and 58 % of non-autonomous). If the time dedicated by company staff to proving the SME status is turned into employer's cost, 88 % of autonomous respondents spent less than EUR 150 in staff costs, against 70 % of non-autonomous ones. Over eighty percent (84 %) of autonomous respondents spend less than EUR 150 in *other costs*, against 76 % of non-autonomous ones. This is in line with the findings described earlier: the ownership rules and the assessment of partner and linked enterprises are considered difficult to apply and require qualified staff or, in some cases, expert support (which can include also translation costs).

Most of the respondents did not need *external private support* when going through the SME assessment, but a fourth of the respondents reported having incurred expenses for consultancy and legal fees linked to the SME assessment (24 % for autonomous, 30 % for non-autonomous). For some respondents the accountant/consultancy work was commented as included in an existing contract[135].

[133] Only values expressed by respondents that indicated to have had to prove to be an SME were considered. Analysis identified man-hours above 20 days, administrative costs above 2 000 EUR, consultancy and legal fees above 5 000 EUR as outliers and these were therefore excluded from the average calculation. 0 values were considered as real (as opposed to "don't know") if the SME definition was considered not burdensome at all or proportionate (n=3196).

[134] Question: Cross-tabulation 11.a working-time – number of man-hours you or your employees spent on proving the status; 8. what is your situation with regards to the EU SME Definition?

[135] In several replies, it is stated that the assessment was performed by the accountant within the annual fee, while in others it was included in the consultant fee for the presentation of a project. In those cases, the respondents mainly filled in only the man-hours, while indicated 0 for the costs.

Table 7 - Average expenditure for SMEs by size and ownership, EUR

	Staff costs[136]		Other costs[137]		Total costs	
Size category	Autono-mous	Non – aut.	Autono-mous	Non – aut.	Autono-mous	Non – aut.
0-9	90	189	125	235	213	424
10-49	96	208	183	288	285	458
50-249	92	305	174	253	220	537
No. of answers (Total N = 3196)	*2312*	*438*	*2312*	*438*	*2312*	*438*

Source: SME Survey[138]

To conclude, **autonomous micro-enterprises bear the lowest costs** of all groups in all cost categories, with an average of total EUR 213 for applying the SME definition[139] (including staff costs). Although geographical differences were not analysed, it can be expected that support from governmental services (such as in Finland or Portugal)[140] would alleviate the burden and costs for companies. Increased company size (only to some extent) and especially ownership structure complexity imply higher costs for companies, leading to SMEs that are part of a group, through partner and linked enterprises, declaring much higher costs than autonomous companies (on average, double).

Extent to which benefits deriving from the Definition exceed burden and costs for application and compliances

There are direct and indirect benefits deriving from the SME status. However, these are not a result of the Definition as such, but linked to the different interventions targeting SMEs. There is a multitude of instruments at both national and EU level. Some key examples at EU level include:

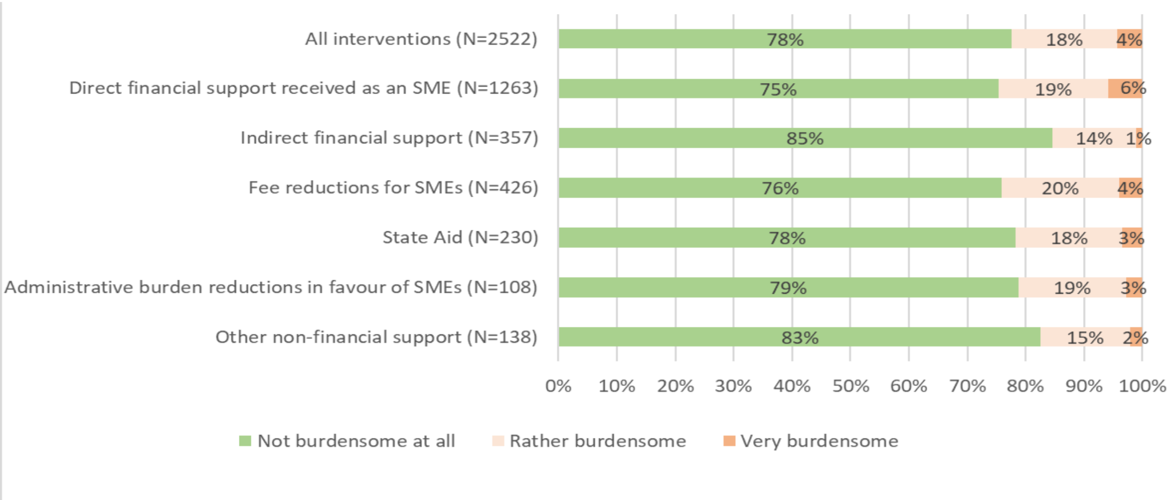
- Direct financial support e.g. EU Grants.[141].
- Indirect financial support e.g. EU guarantee when asking for a credit loan or equity funding.[142]

[136] The man-hours encoded by the respondent have been multiplied by the Labour cost levels expressed in euros in the different Member States (Eurostat, [lc_lci_lev], 2017).
[137] The other costs are the sum of administrative costs and consultancy and legal costs encoded by the respondent, corrected using purchasing power parities (Eurostat, [prc_ppp_ind], (EU28=1], 2017)
[138] Only values expressed by respondents that indicated to have had to prove to be an SME were considered. Analysis identified man-hours above 20 days, administrative costs above 2 000 EUR, consultancy and legal fees above 5 000 EUR as outliers and these were therefore excluded from the average calculation. 0 values were considered as real (as opposed to "don't know") if the SME definition was considered not burdensome at all or proportionate (n=3196).
[139] Respondents were asked to refer only to the administrative work regarding the SME declaration, not that required for the application for e.g. a grant or State Aid support.
[140] See further below in this section.
[141] The SME Instrument under Horizon 2020 has a budget of about EUR 1.3 billion for the period 2014-2020 and provides individual grants up to a maximum of EUR 2.5 million
[142] For the period 2014-2020, programmes co-financed by the European Regional Development Fund have allocated EUR 61 billion to SME support.

- Fee reductions in the application procedure to EU agencies for SMEs.[143]
- Financial public support allowed under State Aid legislation.[144] [145]
- Administrative burden reductions in favour of SMEs, e.g. reduced audit obligations or other reporting.
- Other non-financial support, e.g. advisors, coaching, and administrative assistance.

The graph below (Graph 3) compares the perceived burden of proving to be an SME by type of intervention/benefit within the **SME survey**. Overall, the low level of perceived burden does not vary substantially, spanning from 75% (947 out of 1 253 applying for direct financial support) to 85 % (303 out of 357 applying for indirect financial support) respondents considering applying the definition not burdensome at all. In this regard, one should note that the majority of interventions use the full set of criteria for assessing the SME status. The European Investment Bank/European Investment Fund interventions and certain areas of State Aid make use of the flexibility allowed to them in the Definition.

Graph 3 - Level of burden of providing proof to be an SME by type of benefit obtained[146]



Source: SME Survey

Eighty percent of respondents to the SME Survey[147] who had benefited from the SME status confirmed that the burden to provide the necessary proof is proportionate to the

[143] As an example: European Chemicals Agency's fee reduction to SMEs depending on the company size can be up to 95 % of the standard fee for a REACH registration. European Medicines Agency also applies reduced fees for SMEs.

[144] SME receive aid under several headings of the General Block Exemption Regulation (GBER).

[145] European Commission (2017): State Aid Scoreboard 2017: Results, trends and observations regarding EU28 State Aid expenditure reports 2016.

[146] Only values expressed by respondents who did not reply "I never had to prove I comply with the EU SME Definition" or "other" to question 9, who did not reply "don't know" to question 10, who have less than 250 employees (question 4), who did not reply "don't know" or "you are not considered an SME" to question 8.

benefits acquired through the status. An analysis of the relationship between the perceived burden and the opinion on whether the costs are proportionate to the benefits shows that the higher the perceived burden, the less proportional the benefit obtained is.

The company size does not affect the perception of the cost/benefit, while **a stronger relationship between costs and benefits is noted with regards to ownership**. While 82 % of autonomous SMEs consider the costs of acquiring the SME status as proportionate, fewer SMEs that are not considered autonomous share the same view (76 %).

Table 8 - SME Survey respondents' view on how proportionate the burden of providing the necessary proof is to the benefit received (by ownership)[148]

Do you feel that the burden required to provide the necessary proof is	SME that is classified as autonomous		SME that is classified as non-autonomous	
	Number of	%	Number of	%
Rather or totally proportionate	1427	82%	278	76%
Rather or totally disproportionate	310	18%	90	24%

Source: SME Survey[149]

Around 10 %[150] of the replies (cfr. Table 8) consider the Definition burdensome and the cost of proving to be an SME disproportionate to the benefit acquired. There is no difference in the distribution - by type of benefit received - between those who consider the Definition proportionate and those who consider it disproportionate. Comments of these respondents reveal they find too much bureaucracy is involved when using the Definition, some of the rules are too complicated or not clear.

Stakeholder interviewees could not assess whether the costs are proportionate or not. Some[151] agree that the SME status provides access to greater benefits than the cost of going through the assessment. Only a small number of interviewees from different stakeholder groups considered the costs as disproportionate, in particular for micro-enterprises.

---

[147] Question: Cross-tabulation: Considering this benefit that your company derives from the SME status, do you feel that the burden required to provide the necessary proof is, and: How burdensome was it for you to provide proof that you are an SME? – no distinction with regards to nature of the benefits.

[148] Only values expressed by respondents who did not reply "I never had to prove I comply with the EU SME Definition" or "other" to question 9, who did not reply "don't know" to question 10 (burdensome), who have less than 250 employees (question 4), who did not reply "don't know" to question 11 (proportionate), who did not reply "don't know" or "you are not considered an SME" to question 8.

[149] Question: Cross-tabulation 11. Considering this benefit that your company derives from the SME status, do you feel that the burden required to provide the necessary proof is; 8. What is your situation with regards to the EU SME Definition?

[150] 16% considering only the 1 171 replies from Portugal (with no difference between autonomous and the 147 non-autonomous), 23% considering the 934 replies not coming from Portugal (21% for autonomous, 29% for the 221 non-autonomous).

[151] Interviewees of the three main target groups, SME envoys, SME Associations, and National Agencies gave opinions on this aspect.

National and regional public authorities

Procedures for verification of SME status vary depending on the responsible authorities and the method chosen: ex-ante or ex-post, random or risk-based verification versus verification of every application, or possibility of self-certification (with or without justifying documents). This diversity of procedures, often steered by the number of cases that the different authorities have to process, increases the difficulty of identifying clear cost figures attributable to the SME assessment.

For what concerns **national and regional managing authorities,** only a few respondents to the **interviews** were able to provide indications concerning resources needed to assess the SME status of companies. Their responses varied[152], but mainly pointed to concerns regarding the access to data, which is seen as a major difficulty.

Several managing authorities ask for a simplification of the ownership criterion and for setting up a central registry of undertakings.

European agencies

Information on this matter was also gathered with the European agencies. According to them, the length of the verification procedure is influenced by:

- the time needed to obtain the relevant documentary evidence from the beneficiaries, which tends to be shorter if requested before the award of the benefit, longer if not linked to its actual award and there is no incentive for the applicant to respond;
- the complexity of the enterprises' ownership structure.

---

[152] Some replies:

- "Verifying whether an enterprise is an SME (through the verification of validity of all documents provided) can take 4-8 hours of work for a well-trained person. In case further clarifications are required, the potential beneficiary of the SME status is requested to provide additional documents and proofs. Moreover, if the beneficiary decides to challenge the assessors' decision in court, other costs related to the process would follow. There are also costs related to the risk of incorrect classification, especially if aid is unlawfully granted (it must be recovered, with lengthy procedures and possible court cases) or rejected (most file complaints and challenge the decisions in court)."
- "In the worst cases, it takes days to get information from abroad to make the assessment and if 2-3 authorities need to consider what is the status"
- "The verification often requires an hour of project manager's time"
- "Costs are particularly important when we consider that the company is not necessarily a real SME. We need to do a thorough analysis of the case and ask the company for more information (company's status, the shareholdings in the company, the financial elements, etc.). Our organisation carries out this additional research when we have a strong suspicion that the company is not a real SME. This work is thus not systematic, however, it is an important administrative burden and requires qualified human resources. The cost/benefit ratio depends on the nature and amount of the aid. In some cases, the administrative burden is disproportionate to the aid or aid rates are not very different between SMEs and large enterprises. In this case, one should considering if the is not disproportionate to the difference in aid rates and the possible distortion of competition." - "The administrative burdens are mainly connected to the documentation of the linkage, especially when documentation are needed from the outside of the EU. The documentation needed is unknown i.e. in Tennessee, US and it takes considerable resources in both the firms and in the public administration to get the right documents." - - "Companies that apply for funds and guarantees as SMEs, self-declare their status. The granting authority is obliged to conduct random checks on the 5% of the declarations. Conducting these checks may be quite complicated (access to database, language, etc) and requires time and additional costs (especially when foreign companies and trust companies are involved). Moreover, in some cases, despite the additional efforts, the unavailability of data leads the process to a negative conclusion."
- "The lack of free access to EU Member States enterprises' register is the biggest problem and costs a lot."

SMEs of different size enjoy a fee reduction on substance registration with the European Chemicals Agency. The European Chemicals Agency issues invoices for the fee based only on the self-declared size, which it then verifies ex-post. If appropriate, a top-up invoice for the balance between the (reduced) fee paid and the applicable one is issued. Administrative charges apply in case of self-declaration in the wrong company size.

Resources spent on these checks vary depending on the complexity of the case and the accuracy of the self-declaration. While simple cases can be solved reasonably quickly, cases that are more complex might require a longer investigation and multiple interactions with the enterprises. The European Chemicals Agency estimates that, on average, the check requires about 3.8 working days[153] per application.

Out of the 2 672 cases verified by the European Chemicals Agency during the period 2011 - 2017, 48 % turned out as not being SMEs.

Table 9 - Ex-post checks performed by the European Chemicals Agency

Year	2011		2012		2013		2014		2015		2016		2017		TOTAL	
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%
Verified cases	**245**	100%	**315**	100%	**516**	100%	**271**	100%	**423**	100%	**570**	100%	**332**	100%	2672	**100%**
Wrong size (including within SME categories)	197	80%	192	61%	394	76%	88	32%	150	35%	284	50%	168	51%	1473	**55%**
Non-SMEs	187	**76%**	177	**56%**	378	**73%**	71	**26%**	106	**25%**	228	**40%**	143	**43%**	1290	**48%**

Source: Data provided by the European Chemicals Agency

The European Medicines Agency (EMA) requires enterprises to apply for SME status in advance of requesting financial or administrative assistance. This is done through an electronic self-declaration form sent by email. The Agency performs ex-ante verifications of all applications from companies requesting SME status for the first time. The status is automatically renewed annually, upon request, for the large majority of enterprises - with an ex-ante verification performed on a limited number of renewal applications meeting pre-identified criteria.

Also the European Medicines Agency finds that the review timing varies depending on whether companies are autonomous or part of a group. Currently, about 1,900 companies are registered in its public database. The SME office reviewed 668 SME status applications in 2018 with an average time for the ex-ante verification of 1.15 days[154]. The overall time to issue SME status was on average 48 days if we also include the time taken by enterprises to provide clarifications on issues identified during the verification.

For what concerns the SME checks performed by the European Research Executive Agency (REA), unlike under the previous research framework programme (FP7), the current (H2020) framework programme does not require a systematic ex-ante check of all applicants claiming an SME status. Applicants fill an online assessment tool

[153] The calculation is the following: (50.2 FTEs in 2011-2017 in total x 200 working days per year) / 2.672 completed verifications in 2011-2017 = 3.76 working days per case on average. One should note that this concerns trained staff.

[154] In 2018, 3.85 FTE*200 days: 770 days/668 files reviewed=1.15 days per file.

(embedded in the EU Funding and Tenders Portal[155]) that allows them to input the relevant data online and obtain confirmation of their SME status in real time. No supporting documents are requested and only the data encoded by the applicants are stored.

In this context, the European Research Executive Agency only performs the SME checks for beneficiaries that use the SME online self-assessment tool with respect to their proposal in Horizon2020 calls in which the SME status is an eligibility criterion (e.g. SME instrument Call). For other programmes, such as COSME, national intermediaries check and identify eligible enterprises. The checks are performed ex-post upon request and sampling provided by the Executive Agency for Small and Medium-sized Enterprises (EASME). They may take place at any time in the process (i.e. before or after signature of a grant agreement) and prevail over any self-declaration or assessment.

According to the European Research Executive Agency, an ex-post check take on average about 20 working days, including the time needed for the beneficiary to provide all necessary documents. The timing of the launch of the check as well as the ownership structure of the SME influence the length of the verification process (shorter if before the signature of the grant, longer if not linked to the actual awarding of the benefit):

- Simple ownership structure – autonomous entity: less than half a day;
- Simple ownership structures - non-autonomous entity: half a day;
- More complex structures: up to several days (five on average).

As shown in the table below (table 10), a very limited number of applications are checked and confirm only whether an applicant qualifies as an SME or not, without making distinction between the different size categories.

Table 10 - Ex-post checks performed by REA

Year	Successful SME applicants *	Sample	Error rate of sample	Incorrect staff headcount	Incorrect turnover	Incorrect balance sheet	Incorrect group structure
2015	652	100	8.33 %	n/a	n/a	n/a	n/a
2016	183	100	1 %	42 %	58 %	61 %	19 %
2017	263	50	0.5 %	57 %	61 %	69 %	43 %

Source: Data provided by European Research Executive Agency
* Selected for funding for H2020 SME-Instrument Calls managed by Executive Agency for Small and Medium-sized Enterprises

In conclusion, the **large majority of companies report little costs associated with proving their SME statu**s. Two-thirds of companies reported staff costs and only a quarter reported consultancy costs and legal fees. Especially ownership structure complexity, rather than company size, increases the costs. The majority of companies (80 %) confirm that the burden of acquiring the SME status is proportionate to the benefits derived from it.

[155] https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/home

There is limited evidence available on the amount of resources used by public authorities in general to apply the SME Definition. **The cost of verification seems to be modest for the simple cases**, but increases for non-autonomous undertakings, especially for complex cases and where documentation has to be retrieved from other Member States or, worse, from non-EU countries. Similar issues are reported by European Agencies who perform SME assessments. A few interviewees call for more flexibility of the ownership criterion, so that it can be applied in a proportionate way (i.e. fully when aid involves high amounts, simplified when aid involves limited amounts). Several stakeholders call for **better and free access to business registers and setting up a common register of enterprises**.

To what extent and how could the same results be achieved more efficiently?

The least efficient aspects of the Definition relate to interpretation of the rules and burden of proof of specific elements, such as participations in/from other enterprises.

The calculation (and documentation) of the number of employees may also increase the complexity of proving the SME status. Indeed, the interpretation of the headcount criterion (what types of employees to include) may in some cases be difficult, and is exacerbated by the different types of employment contracts used in EU Member States. The issue is likely to increase with company size as such difficulties mainly concern the larger SMEs which may have more complex structures, spread out in different EU Member States with different types of employees, while most small companies are likely to know exactly how many employees they have and under which contract.

A large number of interviewees across all sub-categories of stakeholders suggested that simplifying and clarifying key aspects such as ownership rules (including determining the market) would improve the efficiency of the application of the Definition.

Also stakeholders responding to the public consultation suggested that improving the clarity of the wording could bring positive effects both in reducing the time for compliance with the requirements of the SME status and the need for specific expertise. Companies would have a better understanding of the criteria and the documents needed to confirm their SME status.

There are examples of Member States where public authorities help reduce the burden on enterprises applying for SME status. In Finland, public institutions conduct the assessment for the company. In Portugal, the National Agency has centralised the SME status procedure to an agency that issues a certificate to the applicant SME through an online platform.

Existing tools at EU level also help companies and managing authorities, but stakeholders are not always aware of their existence. The Commission , published the user guide and put a self-assessment tool on line (which received over 19.000 hits in 2018)[156]. All are available via the SME Definition webpage[157] (receiving on average

[156] http://ec.europa.eu/growth/tools-databases/SME-Wizard/smeq.do;SME_SESSION_ID=E6-oc5pd0vqfEGH1Q8ePRLCg00mlIBlmu3jeeTqa9uqc2JrBdY7a!1028861268?execution=e1s1

[157] https://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en

18.000 hits per month). Several interviewees were not aware that such tools exist, suggesting the need for reinforced (or different) communication efforts to and from the managing authorities.

The current “User guide for the SME definition” is considered by certain stakeholders as not adequately targeting the needs of companies and public authorities. Even though a revised version was published in 2015, it is perceived as too complex for micro- and small enterprises, and not detailed enough for public authorities. The differences in nature of the two types of users of the Definition (public authorities and SMEs) suggest they could benefit from targeted support (separate user guides) to address their specific needs in the compliance process. At the same time, an inherent limitation of such user guides is that the only binding interpretation of the SME Definition can be provided by the Union Courts.

An issue that was mentioned fairly frequently is **access to and (free) availability of enterprise data for verification of SME status**, both regarding data on linked enterprises, but also to data on staff/employees. Several interviewees particularly from Eastern and Southern Europe mentioned difficulties with accessing data and also that data in the national business registries are often not sufficient to assess the relationships – while in Member States with very good data and a high degree of digitalisation (e.g. Denmark and Finland) this particular barrier seems to be of less importance. According to some interviewees, problems are exacerbated when data on linked non-EU enterprise are needed. A few respondents suggested creating a single European business registry to address the issue both of national-level data and for data on foreign, linked companies from other Member States.

In this context, it is worth mentioning that the Commission has put several measures in place which, although not specifically targeted at the application of the SME definition, provide help. As announced in the European Data Strategy[158], the Commission will work on the wider accessibility of data and enabling data flows between businesses and governments by establishing common European data spaces for trusted and secure sharing of data. Fair access for all companies, especially SMEs, will be ensured. A more specific example is the Business Register Interconnection System (BRIS[159]), operational since June 2017. This system ensures EU-wide access for everyone to information and documents stored in Member States’ business registers via the European e-Justice Portal. It currently covers more than 20 million limited liability companies[160] registered across Europe and provides a set of information for free, which was recently expanded through the Directive on the digitalisation of compant law[161], which will be transposed by Member States by August 2021. The future development of BRIS could offer an opportunity to address issues raised by stakeholders. Soon the IT infrastructure created for the system will interconnect also beneficial ownership registers, as required by the

---

[158] https://ec.europa.eu/info/strategy/priorities-2019-2024/europe-fit-digital-age/european-data-strategy_en
[159] https://e-justice.europa.eu/content_find_a_company-489-en.do
[160] Including cross-border branches, not national branches.
[161] Directive (EU) 2019/1151 of the European Parliament and of the Council of 20 June 2019 amending Directive (EU) 2017/1132 as regards the use of digital tools and processes in company law

Anti Money Laundering Directive[162]. Also the set up of the European Single Access Point (ESAP[163]) could offer opportunities to improve the use of digital tools and the access to company data.

As in most Member States business registers are self-financed, the disclosure of all information for free could lead to an increase of the cost of the other services they provide, such as the registration of companies; which is bound to have an important impact on SMEs.

To conclude, stakeholders indicate areas that affect the efficient application of the Definition, such as the burden of proof, the absence of an EU-wide definition of an employee, the lack of clarity on ownership rules, the general nature of the support (no binding or separate user guides targeted at companies or managing authorities) and the lack of (free) availability of enterprise data for verification of SME status.

6.4. Coherence

To what extent is the 2003 SME Definition coherent with other Definitions used in EU legislation?

Despite being a Recommendation, the Definition is widely used and referenced in various EU legal acts, policy documents and intervention guidelines. When integrated or referenced in EU Directives or Regulations, it however acquires a different legal status and binding force[164].

The Definition is mentioned in more than 100 of EU legal acts[165], most of them making direct reference to it and thus using the same criteria and size categories. In a few exceptional cases only one criterion is used to define an SME (for instance, annual turnover in the Capital Requirements Regulation[166]). About one in ten of the acts mention SMEs without referring to the Definition. Examples are the acts establishing Horizon 2020, or the European Medicines Agency. For the purposes of the application of the VAT Directive,[167] a term *small enterprise* is used but in a very specific sense, the scope of which is much more limited[168] than the one covered by the Recommendation 2003/361/EC.

[162] Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.
[163] https://ec.europa.eu/info/consultations/finance-2021-european-single-access-point_en
[164] For example the General Block Exemption Regulation which exempts certain categories of State Aid from the requirement of prior notification to the Commission).
[165] Annex 9 of the Study
[166] Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 - https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R0575
[167] Directive 2006/112/EC on the common system of value added tax.
[168] Qualification as a small enterprise under the VAT Directive in principle depends only on the taxable person's annual turnover and the notion covers businesses operating on a very small scale. The narrow meaning of the term is necessary since it is linked to exceptions to the general VAT rules (e.g. under the "special scheme for small enterprises"[168]) and is required to contain possible negative revenue impacts.

One that merits a more detailed analysis in terms of coherence, is the Accounting Directive. [169]

Both the Definition and the Accounting Directive use similar concepts; however, the two acts are not fully coherent regarding the qualification of SMEs and are applicable in different areas[170]. The Accounting Directive defines three size categories of companies eligible for exemptions from financial reporting obligations, using the same ceilings for headcount but lower ceilings for financial criteria. It also defines small, medium and large groups of undertakings and obliges groups of companies to draw up consolidated accounts (i.e. the combined financial statements of a parent company and its subsidiaries).

Table 11 - SME ceilings applied in the Definition compared to those applied in the Accounting Directive 2013/34

	Head count		Balance sheet total (EUR)		Net turnover (EUR)	
	Definition	Accounting Directive	Definition	Accounting Directive	Definition	Accounting Directive
Micro	≤ 10	≤ 10	≤ 2.000.000	≤ 350.000	≤ 2.000.000	≤ 700.000
Small	≤ 50	≤ 50	≤ 10.000.000	≤ 4.000.000[171]	≤ 10.000.000	≤ 8.000.000[172]
Medium-sized	≤ 250	≤ 250	≤ 43.000.000	≤ 20.000.000	≤ 50.000.000	≤ 40.000.000

The differences in **ceilings** between the Definition and the Accounting Directive reflect the divergent objectives of the two acts.[173] The Definition grants the SME status allowing companies to benefit from various sources of funding and other benefits and seeks to include all the enterprises that would need this support; it thus applies higher ceilings to be on the safe side. The Accounting Directive, on the other hand, allows exemptions from certain accounting/reporting obligations to SMEs and is more restrictive since it seeks for the balance between administrative burden for enterprises and the need for transparent information for public authorities; it thus applies lower ceilings[174]. In addition, the Accounting Directive does not oblige the use of the headcount criterion but

[169] See also case study 7 prepared in the framework of the external evaluation study

[170] The Accounting Directive applies with regards to financial reporting, where the SME definition is not applicable.

[171] Member States may define ceilings for small enterprises in national legislation exceeding the ceilings established by the Accounting Directive. However, these higher ceilings shall not exceed EUR 6 000 000 for the balance sheet total.

[172] Member States may define ceilings for small enterprises in national legislation exceeding the ceilings established by the Accounting Directive. However, these higher ceilings shall not exceed EUR 12 000 000 for the net turnover.

[173] An alignment of the ceilings of Directive 78/660/EEC on the annual accounts of certain types of companies to the SME definition was proposed in 2009, but the EU SME Definition ceilings, in particular for micro-enterprises, were deemed too high for accounting purposes. For more info see http://ec.europa.eu/internal_market/accounting/docs/news/legal_proposal_en.pdf

[174] Article 23 of the Accounting Directive exempts small and medium sized groups from drawing up consolidated accounts. Small groups are strictly exempted from the obligation to draw up consolidated accounts, while for medium enterprises, the Member States are free to choose whether to exempt them from drawing up consolidated accounts or not.

allows for the use of any two criteria out of the three[175]. It should be noted that the Accounting Directive's ceilings to define an SME are also used in a number of EU legal acts.

There are also differences in the way partner companies are defined[176], as well as the way the staff headcount is calculated. Indeed, while the Accounting Directive uses a simple annual average of employees, the EU SME definition uses this criterion to promote the development of vocational training, the use of maternity and parental leave and goes beyond the counting of employees as such.

During the consultation, some stakeholders suggested a closer alignment between the two acts[177] and call for example for the use of consolidated accounts to evaluate the SME status of a company. Although the Definition recommends using consolidated accounts when available and makes explicit reference in its considerations to the Accounting Directive, the two acts do not use the same level of consolidation where partner enterprises are concerned. This hampers the sole use of consolidated accounts to assess the SME status under the Definition.

Based on the flexibility foreseen in Consideration 7 and Article 2[178] of the Recommendation, the European Investment Bank and European Investment Fund Group's standard policy for own resources has been to apply the SME Definition based only on the criteria of the staff headcount and independence/ownership only, except in fields of State Aid. In European Commission's mandates (e.g. European Regional Development Fund, European Fund for Strategic Investments) where the European Investment Bank /European Investment Fund is the entrusted entity, the full SME Definition, as required by the mandate, is used. Nevertheless, as they work with national financial intermediaries in the different Member States, they highlighted as a particular

[175] It allows companies to fulfil financial criteria only, as the exemption is conceived to minimise the burden of financial reporting for the small entities.

[176] Under the Accounting Directive enterprises are considered autonomous up to 20% participation, the EU SME Definition puts the ceiling at 25%.

[177] A public consultation was also carried out in the framework of a 'Fitness check on the EU framework for public reporting by companies', and asked two questions on the same topic. The first question was whether the Commission should strive to use a single definition and unified metrics to identify SMEs across all the EU policy areas. Out of the 191 respondents who replied to this question, 141 agreed to a smaller or larger extent (45 totally agreed), 18 did not agree at all and 32 did not know or had no opinion. The second question was whether the EU should strive to align the SME definition metrics in the Accounting Directive with those in Recommendation 2003/361/EC. 188 respondents replied to this question: 117 agreed to some extent (out of which 50 totally agreed), 28 did not agree at all and 43 did not know or had no opinion.

[178] Consideration 7: "As in Recommendation 96/280/EC, the financial ceilings and the staff ceilings represent maximum limits and the Member States, the European Investment Bank and the European Investment Fund may fix ceilings lower than the Community ceilings if they wish to direct their measures towards a specific category of SME. In the interests of administrative simplification, the Member States, the European Investment Bank and the European Investment Fund may use only one criterion - the staff headcount - for the implementation of some of their policies. However, this does not apply to the various rules in competition law where the financial criteria must also be used and adhered to."

Article 2: "The ceilings shown in Article 2 of the Annex are to be regarded as maximum values. Member States, the European Investment Bank and the European Investment Fund may fix lower ceilings. In implementing certain of their policies, they may also choose to apply only the criterion of number of employees, except in fields governed by the various rules on State Aid."

challenge the fact that they have to enforce the application of the Definition to national financial institutions that would otherwise follow different practices (when operating with counterparts that are not European Investment Fund and/or the European Investment Bank or outside an EU programme)[179].

This distinctive interpretation of an SME in the financial sector is also illustrated by the Markets in Financial Instruments Directive II (or MiFID II)[180], which defines SMEs based on their market capitalisation (below EUR 200 million) or debt issuance over 12 months (below EUR 50 million) if the company does not have publicly listed equity. This definition is then used in a number of pieces of legislation pertaining to financial services, either to grant regulatory alleviations to these companies (e.g. in the Prospectus Regulation[181] and the SME growth market regulation[182]) or increase their attractiveness towards investors (e.g. through the European Venture Capital Regulation[183]). The MiFID II SME definition is under review in the context of the SME growth market regulation. The Commission is currently assessing whether it would be appropriate to raise the ceiling to allow a wider set of companies to benefit from the related alleviations.

In conclusion, **the Definition is well integrated into EU legislation,** while providing flexibility to adapt to the requirements of particular policy areas, such as financial policy and target groups. A number of stakeholders would welcome alignment between the Definition and the Accounting Directive. Although the two documents serve a different purpose, there is potentially some scope for alignment concerning the calculation of the staff headcount and the level of consolidation. This would reduce administrative burden for both companies and controllers.

Are there any problems for stakeholders when operating in an international context due to the co-existence of other definitions outside the EU?

To what extent are SME definitions used internationally different from the Definition?

There is no universal definition of what constitutes an SME[184]. Most of the definitions are based on the number of employees, followed by the volume of sales.[185]. A study of the World Bank on SMEs worldwide showed that, although there is significant variance in the definitions used, around a third of the countries covered micro, small and medium enterprises as having up to 250 employees [186,187].

---

[179] See also section 6.2
[180] Directive 2014/65/EU
[181] Regulation (EU) 2017/1129
[182] Regulation (EU) 2019/2115
[183] Regulation (EU) 345/2013
[184] See Crehan (2020) for an in-depth discussion of SME definitions around the world. Crehan, P., Reflections on a Revision of the Definition of the EU SME, Gavigan, J. editor(s), Publications Office of the European Union, Luxembourg, 2020, ISBN 978-92-76-28301-0 (online)
[185] Oya Pinar Ardic, Nataliya Mylenko Valentina Saltane, “Small and Medium Enterprises A Cross-Country Analysis with a New Data Set”, The World Bank Financial and Private Sector Development Consultative Group to Assist the Poor, January 2011.
[186] 46 (mainly developed countries) out of 132 economies were considered in the study.

Developing countries use similar criteria as in the Definition, but often with different ceilings as the SMEs are usually smaller in those countries. [188]

There are similarities also between the SME definition used by the **World Bank** and the EU SME Definition; the World Bank uses number of employees, and two financial criteria (total assets in US dollars and annual sales in US dollars[189]) and two criteria have to be fullfilled: headcount and at least one financial criterion. However, the employment ceiling used by the World Bank (up to 300 employees) differs from EU practice[190].

When looking at the **EU key trade partners** (US, Japan, China and Russia), there are significant differences between their SME definition and the European one, the most important being higher ceilings and the use of a sectoral approach.

USA, Japan, China and Russia use criteria based on the number of employees and/or a financial criterion, either average annual receipts, capital amount, operating income or sales. In the US and Japan, one single criterion is used to define an SME.

The Russian SME definition is the most similar to the EU in terms of *number of employees*. The Chinese SME definition sets up a maximum ceiling of 300 employees for the SMEs in the manufacturing sector. The US and Japan allow the highest number of employees, including a maximum 1500 employees in mining or manufacturing in the US, and up to 2000 employees in technology industries in Japan.

Only the US does not apply a *distinction in size category* within the SME population. Russia and China apply the same company size categories as the Definition (micro, small, medium) while Japan distinguishes small enterprises from the general SME population.

Contrary to the EU SME Definition, definitions used in the US, Japan, China and Russia do not allow to *choose between two different financial ceilings*. In Japan, only one criterion is applied for micro enterprises (number of employees), and two criteria are applied to the other SMEs (number of employees and capital amount.

The flexibility provided by the EU SME definition in choosing which financial criterion to use is replaced by the application of criteria depending on *the sectors and the size category* in US, Japan[191] and China[192]. Only in Russia there is no sectoral approach.

---

[187] Kushnir, K., Mirmulstein, M.L. and Ramalho, R 'Micro, Small, and Medium Enterprises Around the World: How Many Are There, and What Affects the Count?' World Bank IFC, 2010.

[188] For example, in Indonesia, medium-sized companies can have up to 100 employees, and in Thailand medium sized companies can have between 50 and 200 employees depending on the sector. (N. Ikasari, T. Sumransat, U. Eko, R. Kusumastuti, "Access of Small and Medium Enterprises to Finance in Rural Areas: Case of Indonesia and Thailand", International Journal of Economics and Management Engineering, 2016)

[189] The total assets and annual sales are comparable to the balance sheet and turnover in the EU.

[190] Gentrit Berisha, Justina Shiroka Pula, "Defining Small and Medium Enterprises: a critical review", Academic Journal of Business, Administration, Law and Social Sciences, March 2015.

[191] In Japan distinctions are restricted to four broad categories: manufacturing, wholesale, retail and services industries.

[192] The 2011 guidelines introduced distinctions for the first time between different types of economic activity. In fact there are 16 different industry categories, and the ceilings vary across them, but industry (mining, manufacturing, electricity, heat, gas and water production and supply) has an upper limit of 1,000 persons and a ceiling for operating revenue of 400 million RMB (around € 50.6 million), while a

In the US, SMEs are characterised differently depending on the sector[193]; for example, the number of employees is used in the manufacturing sector, while annual average receipts for the construction sector. In China, in 11 out of 14 sectors, both criteria (number of employees and operating income) have to be used (i.e. manufacturing industry) and in 2 sectors only the operating income is used[194] [195].

The USA and Russia use the *ownership* criterion. The USA has defined both general principles of affiliation and more specific ones for the SBA's Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs and for SBA's Business Loan, Disaster Loan, and Surety Bond Guarantee Programs; rules on affiliation are very detailed[196]. In the case of Russia, the share of public bodies in the registered capital has to be less than 25 %. Both countries have also a rule regarding the participation of foreign legal entities: in Russia, it has to be less than 49 % if the foreign legal entity is not an SME, while in the US general principles on affiliation there can be no more than 49 % by foreign business entities in a joint venture.

In the USA the impact of inflation on monetary-based size standards (e.g., receipts, net income, assets) has to be examined at least once every five years and increased if inflation has significantly eroded their value. More detailed description is included in the study (Annex 7 “SME definitions outside the EU”).

To conclude, most non-EU SME definitions have a sectoral approach and thus provide different ceilings for companies in different sectors. A more thorough analysis would be necessary to judge the strictness of these definitions, their ease of application, the extent to which they cover more or less SMEs and how such an approach would work within the EU different market structures[197].

To what extent do these differences represent a problem for stakeholders when operating in an international context?

Non-EU countries apply higher ceilings in their SME definitions. This may result in granting the SME status to companies that would be considered large companies according to the Definition. Hence, in international context an EU SME could face competition from with bigger non-EU companies that enjoy advantages reserved to small businesses in their country.

A Eurobarometer survey from 2015[198] showed that the majority of European SMEs (69 %) did not conduct any business outside the EU between 2012 and 2015.

number of service industries (software and IT services, catering, accommodation, have ceilings of less than 300 persons or less than 100 million RMB (around € 12.6 million).

[193] In total, there are around 1200 separate sectoral definitions of a small business relating to each six digit industry in the North American Industry Classification System (NAICS).

[194] Real estate industry and agriculture/forestry/animal husbandry and fishery.

[195] In the construction industry both criteria are used for micro-enterprises, while for small and for medium the operating income is used solely.

[196] A comparison with the ownership rules in the EU SME definition would require a separate analysis.

[197] No studies comparing the SME definitions of those four countries was available.

[198] Eurobarometer survey, Internationalisation of small and medium-sized enterprises, October 2015d

In fact, SME associations confirmed that the co-existence of different SME definitions does not affect the EU companies operating in non-EU countries.[199] There are of course exceptions in terms of awareness of the effects of differences with SME definitions outside the EU: the biopharmaceutical industry notes that in the US SBIR/STTR[200] the headcount ceilings for Pharmaceutical or biotech companies are significantly higher[201] than the 250 employees for eligibility to receive comparable grants in the EU.

However, in general the co-existence of different SME definitions with the EU key trade partners does not seem to be a problem for the stakeholders consulted for the competitiveness of the EU SMEs when operating in international context. This can be explained by the fact that only a small share of EU SMEs operate in third countries.

To what extent is the 2003 SME Definition coherent with current EU policies regarding start-ups and scale-ups?

A recent Flash Eurobarometer[202] finds that 6% of EU enterprises are start-ups (788 out of 12 615 surveyed companies), i.e., young enterprises, founded in 2015 or later, that have introduced any kind of innovation in the last 12 months, and plan to grow in terms of turnover and/or employment. Seventy two percent of those start-ups have less than 10 employees and 84% have up to EUR 2M turnover. 18% of EU enterprises are scale-ups (62% with less than 10 employees and 72% with up to EUR 2M turnover). These companies significantly contribute to job creation and productivity: in case of those with at least 10 employees, 81% of such start-ups and 87% of such scale-ups increased their employees in the last three years compared to 48% of SMEs in general, while 72% of start-ups and 92% of scale-ups increased their turnover in the last three years compared to 50% of such SMEs. The same pattern of strong contribution to job creation can also be observed in case of micro enterprises, among which 65% of start-ups and 64% scale-ups have increased their employees in the last three years, compared to 23% of other micro SMEs. In terms of turnover, 72% of start-ups and 92% of scale-ups increased their turnover in the last three years compared to 49% of SMEs. Thus, start-ups and scale-ups are key contributors to both EU employement and turnover growth. In November 2016, the Commission adopted the Start-up and Scale-up Initiative with the aim to improve the conditions for these companies[203]. This policy approach was reconfirmed in 2020 by the SME Strategy for a sustainable and digital Europe[204].

For these reasons, in the following sections, the evaluation assesses whether the SME Definition might be a factor that makes some companies choose to 'stay in their current position' and maintain their SME status rather than growing (fast) and thus creating

[199] It should be noted that effects on trade, international agreements and extra-EU enterprises applying for EU funds have not been included in the evaluation.
[200] The Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs
[201] 1,000 employees for "Research and Development in Biotechnology companies" to 1.250 employees for "Pharmaceutical Preparation Manufacturing and Biological Product (except Diagnostic) Manufacturing"
[202] Flash Eurobarometer 486 SMEs, start-ups, scale-ups and entrepreneurship 2020
[203] https://ec.europa.eu/digital-single-market/en/news/new-initiative-startups-start-and-scale-europe
[204] COM/2020/103final

growth and jobs. It also assesses whether an extension of the period during which companies can retain the SME status could mitigate such effects.

Given that access to finance is seen as slightly more problematic for scale-ups and especially start-ups (23% and 29% respectively, compared to 21% of all SMEs)[205], another element that is analysed is the way the Definition considers venture capital and business angels and if this affects the attractiveness and uptake of these financing means with start-ups and scale-ups.

To what extent is the Definition discouraging SMEs to scale-up?

The favourable conditions linked to the SME status could potentially contribute to certain lock-in effects, discouraging SMEs to scale-up by fear of losing the support that this status provides. Companies that outgrow the defined SME ceilings lose the SME status. This may result in a concentration -just below the ceilings- of companies that restrain their growth in order to remain an SME.

Annex 11 of the study provides a broad picture of the phenomenon based on academic sources. The reviewed studies show that size-dependent policies entail certain lock-in effects, which are small but statistically significant (i.e. the effect is very unlikely to be caused by chance). On the other hand, in its position paper in response to the public consultation of the Start-up and Scale-up Initiative, SME-united responded: "*In our view, attention has to be given to "traditional" SMEs as well, as 70% of SMEs would like to stay in their current situation."* Therefore, it is not straightforward to measure the lock-in effects and there is no agreement on how big the lock-in effect then actually is.

Academic literature that looks specifically at the ceilings set by the SME Definition, is not available. The main lock-in effects that are found seem to be caused by national policies, for instance labour market regulation and taxation. The 2012 Evaluation of the SME Definition[206] already suggested there were indications of lock-in effects, but also found no evidence that would link them specifically to the SME Definition. In this context it is also worth reiterating[207] the issue of the self-employed. Often they are sub-contracted by companies that prefer not to employ them on a regular basis for multiple reasons, among which keeping the benefits attached to the SME status.

In the position papers from stakeholders submitted for the current evaluation, only the business association Eurochambres commented on the possibility of a lock-in effect, referring to the above conclusions from the 2012 evaluation. Regarding the use of the Definition in Better Regulation, SME United calls for legislation that takes into account how the majority of companies can comply, rather than provide "exemptions".[208]

---

[205] Source see fn 158
[206] CSES (2012): Evaluation of the SME Definition, Final Report
[207] See section 'To what extent did the Definition help to increase focus on micro-SMEs?
[208] https://smeunited.eu/news/better-regulation-an-sme-point-of-view

In the SME Survey, respondents were asked whether the fear of losing their SME status kept them from hiring staff or expanding in any other way. A large majority (78 % - 4 383 out of 5 651)) of respondents answered that this was not the case[209].

The recent Flash Eurobarometer[210] finds that among the EU SMEs that had no plans to grow (i.e. neither in employment nor turnover, representing 31% (3 910 out of 12 615) of the responding SMEs), the majority gave as reasons: no intention to grow (39%), followed in turn by: market saturation as regards their products and services (37%) and regulatory and administrative burdens (34%). Further self-declared reasons for not scaling up include: company location not allowing for growth (20 %), insufficient financial resources to grow (19%) and insufficient skills needed to grow (13%). Only 8% say their enterprise does not plan to grow because it would lose benefits linked to its SME status[211]. Interestingly, these SMEs that had no plans to grow because they would lose the benefits linked to their SME status also tend to be more often located near a border with an EU country[212]. Problems related to operating cross-border and access to finance are actually bigger obstacles preventing SMEs from scaling-up than the the loss of the SME status.

In conclusion, lock-in or ceiling effects linked to the SME status and scaling-up are a very limited issue, as is shown by responses to the SME survey and the recent Eurobarometer Flash survey. Any quantitative ceiling comes with an inherent risk of a lock-in effect and thus a change in the ceilings would not eliminate it but rather simply move it. It has also to be noted that the Better Regulation SME test tool was updated in 2017 and new EU legislation is currently checked for the effect that the use of ceilings may have on the scaling-up potential of companies[213]. Furthermore, the SME Strategy contains targeted measures to support start-ups and scale-ups and address these obstacles, for example the EU startup Nation Standard.[214].

[209] SME Survey Question 20: Does fear of losing SME status keep you from hiring staff or expanding in any other way?

[210] Flash Eurobarometer 486 SMEs, start-ups, scale-ups and entrepreneurship 2020

[211] The corresponding question (Q7b of the survey) had multiple answers possible to explain the enterprise's situation. Not having chosen this answer can in this survey thus only be interpreted as not having specific issues with it.

[212] As regards the 8% of SMEs which declare no plans to grow because they would lose benefits linked to the SME status, those companies are more likely:

- to cite also certain other reasons for not planning to grow, such as that there is no intention for the enterprise to grow beyond its current size (61% vs. 37% of SMEs that are not concerned about losing benefits linked to their SME status), additional regulatory or administrative burdens and requirements (59% vs. 32%) and the current location of the enterprise not allowing them to grow and they do not wish to relocate (36% vs. 19%).
- to be located near a border with an EU country (16% vs. 6% of SMEs that do not mention that they would lose the benefits linked to their SME status).
- to be a member of an industry cluster or another SME business support organisation in their region (17% vs. 11% of SMEs that do not mention that they would lose the benefits linked to their SME status).
- to be solely owned by one person (46% vs. 38% of SMEs that do not mention that they would lose the benefits linked to their SME status).

Source: Flash Eurobarometer 486 SMEs, start-ups, scale-ups and entrepreneurship 2020

[213] "Whenever a ceiling is being considered to differentiate the application of a given option on companies, the effects of the ceiling on the potential scaling-up of companies should be assessed."

[214] https://ec.europa.eu/digital-single-market/en/startup-europe

To what extent does the Definition allow SMEs to receive equity investment without losing their status?

The SME Definition aims to encourage the creation of enterprises by providing exceptional treatment for equity financing (see Article 3.2 (a-d)) [215].

Venture capital investment (VC) is considered an important source of funding and growth creation in SMEs[216]. It refers mainly to investment funds that directly participate in private companies and exit through selling their investments. 'Business angel' (BA) generally refers to a private individual, often of high net worth, and usually with business experience, who directly invests part of his/her personal assets in new and growing private businesses.

Compared to the overall number of about 25 million SMEs in Europe, the number of companies receiving venture capital or business angels' investment is very small. A recent Flash Eurobarometer[217] finds that 1% of EU SMEs are invested in by a venture capital firm (2% for scale-ups), with variations in some Member States (highest in Luxembourg, with 3%). Although very few companies are affected, this type of financing serves an important role in enabling potential high-growth companies. Article 3 of the SME Definition sets out provisions concerning autonomous, partner and linked enterprises. It grants an exemption to the partner rule for individual stakes of up to 50 % by certain investors such as public investment corporations, venture capital companies, and 'business angels' that do not exert control or dominant influence in other ways. For Business Angels, there is an additional limit in that its total investment in an enterprise should remain below EUR 1 250 000.

Venture Capital companies often take less than a 50 % share in a company[218] and, if not exerting in other ways control or dominant influence over it, do not affect the SME status of that company. However, if they do take a majority participation or chose to exercise dominant influence in another way, the rules on linked enterprises apply. In that case, all the companies in which they acquired more than 50 % of the voting rights or exert in

[215] See consideration 10: 'In order to encourage the creation of enterprises, equity financing of SMEs and rural and local development, enterprises can be considered autonomous despite a holding of 25 % or more by certain categories of investors who have a positive role in business financing and creation. However, conditions for these investors have not previously been specified. The case of "business angels" (individuals or groups of individuals pursuing a regular business of investing venture capital) deserves special mention because - compared to other venture capital investors - their ability to give relevant advice to new entrepreneurs is extremely valuable. Their investment in equity capital also complements the activity of venture capital companies, as they provide smaller amounts at an earlier stage of the enterprise's life.'

[216] On a sample of EU-based VC-backed firms, a JRC study finds that receiving a VC investment positively impacts the growth of target companies in terms of total assets, sales, and the number of employees. This effect is more pronounced for younger SMEs, financed in earlier rounds of VC investments (Bellucci, A., Gucciardi, G. and Nepelski, D., Venture Capital in Europe. Evidence-based insights about Venture Capitalists and venture capital-backed firms, EUR 30480 EN, Publications Office of the European Union, Luxembourg, 2021, ISBN 978-92-76-26939-7, doi:10.2760/076298, JRC122885).

[217] Flash Eurobarometer 486 SMEs, start-ups, scale-ups and entrepreneurship 2020

[218] The EIF has analysed its stakes in the underlying investees from 1997 to 2018: out of the 7 414 companies analysed (90 % qualified as SME at the time of the investment), it was found that 1 283 investees (17 %) had been or were currently held by the EIF funds with a majority stake.

other ways control or dominant influence, are treated as a group. As a result, these companies might exceed the ceilings set by the Definition and lose the possibility to access EU funding and other benefits reserved for SMEs.[219]

A (small) majority of the concerned stakeholders that were consulted on this topic are in favour of increasing or removing the ceilings, since they see the rules as a possible barrier to investment in SMEs, thus limiting their growth potential. In particular, financial intermediaries active in venture capital investment, stated that limiting the exclusion from the SME calculation to investors that hold less than 50 %, has a restrictive effect on both venture capital and private equity investment in SMEs. They also see this limitation as hindering the ability of other EU initiatives/programmes to support SMEs in their access to different sources of finance.

Business angels tend to be a common source of external seed and early stage equity financing in many Member States such as Germany and Spain. A recent Flash Eurobarometer[220] finds that 1% of EU SMEs are co-owned by a Business angel (2% for start-ups and scale-ups), with variations in some Member States (highest in BE, with 6%). The majority of respondents typically invest as part of a group, also called Business Angels Networks (BAN). Only around one sixth of them have a solitary investment approach, and about a third have no particular investment approach in this regard. There are almost 400 Business Angels Networks active in Europe and a report from the European Business Angels Network shows that while investments from **BANs** are on average above € 2 million[221], the average investment of an individual business angels is around € 30.000 [222] (with only 10% of investments above € 200 000), thus well below the Definition's ceiling of EUR 1 250 000.

In the **SME Survey**, respondents were asked their opinion on the provision that "Enterprises where a venture capital company owns a more than 50 % share are not considered autonomous. They might therefore not be considered an SME, even if individually they meet the staff headcount and financial ceilings."

The message from the respondents was mixed: 30 % (1 695 out of 5 651) indicated that the rules are appropriate, while 14 % stated that they are not and 56 % did not know. Among companies that have venture capital investors (144 companies, constituting 2.1 % of the survey respondents), the opinions were more pronounced: 53 % thought that the provision was not appropriate, while only 17 % thought that it was. Among these 144 survey participants, 60 % reported that the venture capital investor owns less than 50 % of their business, while 35 % indicated that the venture capital investor owns more than 50 %.

---

[219] A similar issue may occur with university spin-off companies. University spin-off companies are based on resources and expertise from universities and their facilities. Spin-offs can be small start-ups for example developed inside the structure of a university. Due to consolidation with the university in case of majority ownership, the spin-off company may not qualify as an SME.

[220] Flash Eurobarometer 486 SMEs, start-ups, scale-ups and entrepreneurship 2020

[221] EBAN Statistics Compendium European Early Stage Market Statistics, 2016. http://www.eban.org/wp-content/uploads/2017/11/Statistics-Compendium-2016-Final-Version.pdf

[222] European Commission (2017) Understanding the Nature and Impact of the business angels in Funding Research and Innovation, Final Report. The report mainly builds on a survey covering a broad selection of EU Member States and with 592 responses from business angels.

Respondents in the **public consultation** generally agreed that the rule may discourage SMEs from seeking private investment and hinder venture capital investment in SMEs, but opinions on the appropriateness of the rules are divided. Approximately equal shares of respondents agree and disagree that the ceilings (for the participation of venture capital and business angels) are appropriate. We see similarly divided opinions on whether the ceilings should be substantially increased or removed. Position papers submitted by national business associations from different Member States also have mixed views. Several papers comment on the ceiling for BAs amounting to € 1,250,000 as arbitrary and consider that it should be eliminated.

The limitations on equity investment set by the Definition are thus seen as potentially hindering the investees'ability to profit from other (EU) measures aiming to support SMEs. However, a full exemption for Venture Capital and Business Angels Networks investments might create unintended loopholes (e.g. for subsidiaries of 'common' parent companies).

Regarding venture capital investments, there are no clear conclusions to be drawn. In this context, the SME definition has only a minor role in tackling the bottlenecks faced by the venture capital sector in Europe whose constraints are mainly driven by structural factors e.g. fiscal and regulatory ones[223]. A recent report of the European Court of Auditors[224] states that "*…there is no consensus in the academic literature on whether the low levels of venture capital investments compared to GDP in most EU Member States are predominantly a supply or a demand-side problem, i.e. whether there is insufficient venture capital supply or whether there are insufficient companies to invest in"*[225]. With regards to Business Angels, according to a European Investment Fund working paper[226], investments are mainly driven by personal interest and previous experiences of the business angels, as well as physical distance to the investee company. The SME status of a company seems not to be among the criteria used to select their portfolio.

In conclusion, the issue at stake is a concern for a very limited number of companies (i.e. those very few companies where a single venture capital investor has a majority participation). Even though some stakeholders imply that the current provisions may hinder the accessibility of certain companies to EU initiatives that aim to support innovative SMEs, there is no clear evidence that the Definition has a pivotal role in

---

223 In this context, it is also relevant to note that the US SME definition includes similar limitations on venture capital investment for a number of its support programs.

224 https://www.eca.europa.eu/Lists/ECADocuments/SR19_17/SR_Venture_capital_EN.pdf

This report also mentions that the 2013 ex ante evaluation of IFE highlighted low returns as one of the main reasons for private investors' limited interest in venture capital: "Apart from the dot.com bubble period from 1997-2000, the average annual return to European venture capital funds has been below 10 %, and for the past ten years or so, negative, with not even the performance of the best-managed funds high enough to deliver the returns sought by institutional investors" . It further finds that 'Many of the structural factors that can either boost or restrict venture capital across Europe are still largely the preserve of the Member States. For instance, national fiscal laws may hinder venture capital market development, corporate and labour laws may obstruct the hiring of staff, and the regulatory environment could dampen investors' risk appetite and constrain fundraising'.

225 Joint Research Center Science for Policy Report, "Improving access to finance: which schemes best support the emergence of high-growth innovative enterprises?" p. 12.

226 EIF Working Paper 2020/062: The Business Angel portfolio under the European Angels Fund - an empirical analysis

steering equity investment in SMEs. Issues of such a specific nature could be better examined within their particular policy context, while recognising the need to ensure consistency and equal treatment in view of the horizontal SME Definition. It is also noteworthy to mention that, during the Covid crisis, the Temporary State Aid Framework allows support to all types and size of enterprises.

To what extent is the 2-year grace period adequate to allow fast growing companies to grow without fear of losing the SME status?

Article 4 of the Definition states that when an enterprise exceeds or falls below the headcount or financial ceilings, this will not result in the loss or acquisition of the status of medium-sized, small or microenterprise unless those ceilings are exceeded over two consecutive years (accounting periods). This is often referred to as the 'grace period'. The question is whether two years is an adequate period to ensure that SMEs are allowed time to grow, while at the same time ensuring that only genuine SMEs are covered. Within the EU, all Member States (apart from Croatia) apply a grace period of 2 years.

During the interviews, **the majority of respondents agreed that the grace period is useful and the length of 2-year reasonable**. Nevertheless, some stakeholders mentioned that in periods characterised by strong economic fluctuations (as during the 2008 economic crisis), companies might easily move above and below the ceilings within short periods of time, possibly losing the status of SME and consequent benefits in particularly difficult times. Those favouring an increase to three years mentioned the fact that it would allow return on investments (i.e. international expansion), and better reflect the life cycle of business ventures (quoting mortality[227] as being highest in the first three years according to GEM[228] - Global Entrepreneurship Monitor).

A majority of respondents (overall 54% - 526 out of 974) to the **public consultation** stated that the length of the grace period was appropriate, but one in four respondents (25%) thought it too short (with EU level organisations, SMEs, non-SMEs and other organisations reaching approximately one in three (30%)), while a minority (8%) considered it too long. The majority of all categories of respondents consider that extending the duration of the grace period would either not pose any risk or only to a small extent when it comes to granting preferential treatment to enterprises that are not genuine SMEs. In the position papers submitted for the public consultation, 12 stakeholders considered the period too short and suggested extending it to 3 or 4 years to allow companies to implement e.g. internationalisation plans or development projects which usually take longer than 2 years. Seven papers (all from international business associations or a German business association) indicated they deem the 2 years appropriate, among other things because extending the grace period would give undue advantage to fast-growth companies for whom well-established funding opportunities are

[227] Businesses ceasing activity or going bankrupt
[228] https://www.gemconsortium.org/report.

anyhow available and reduces their needs for exemptions and funding available specifically to SMEs. [229]

In conclusion, the **grace period is considered useful and of appropriate length.** Minority groups (of about equal size) would favour either a shorter period, or call for a **longer** one to allow companies to confirm their growth, change in size and have more than two years to adapt to the set of legal obligations that come with this change. Most stakeholders do not perceive an extension of the grace period as a risk to granting preferential treatment to enterprises that are not genuine SMEs.

6.5. EU Added Value

What is the added value resulting from the Definition?

As demonstrated above[230], the Definition led to a significant convergence of SME definitions within EU acts and policy initiatives. The Definition is widely used and referenced in various EU legal acts, policy documents and intervention guidelines. Most legal acts included in the scope of the study[231] make direct reference to the Recommendation 2003/361/EC and a minority refer to SMEs without referring to the Definition. Further EU policy documents refer to the Definition by quoting it directly in their text.

The large take-up of the Definition and the common understanding of the concept of an SME in legal texts and policy documents illustrates that it managed to meet its initial objective to an important extent. A very significant recent example is the SME strategy for a sustainable and digital Europe which will cover all types of SMEs and support them in their transition towards a digital and green economy[232].

Most of the stakeholders recognised that the Definition's strongest point is its wide usage and application across several EU policies, as well as across all sectors. More precisely, these views were mainly put forward by SME associations and national agencies applying the Definition, regardless of the Member States they are from. One of the representatives of SME associations summarised their shared opinion: "*There have been many positive achievements. The Definition has been a useful instrument for targeting a number of SMEs. Having the common Definition, shaped the understanding of what is an SME among the Member States. It is beneficial even though some countries have their own economic realities and apply different definitions for national needs*."

The Definition has contributed to the **convergence of national SME definitions**, by serving as a model. To date, more than half of the Member States harmonised their national SME definitions according to the Definition. In the remaining Member States

[229] While the US definition of SMEs does not provide a grace period as such, it does calculate the financial parameter as average annual receipts over the past three years.
[230] See section 'To what extent has the Definition limited the proliferation of definitions of SMEs in use at EU and national level'.
[231] See annex 9 of the external study.
[232] See also section 6.2. To what extent has the SME definition achieved its aim of identifying the enterprises most confronted with competitive disadvantages because of their size?.

the ceilings are sometimes adapted to suit the national economic structures and a few do not use all three size classes, but all of them use basically the same size criteria (headcount, turnover, and balance sheet) as the Definition.

Almost all interviewed stakeholders stated that, in the absence of a Definition, Member States would have applied their own definitions tailoring them to their national factors (e.g. the size of market, sectors). In addition to strengthening convergence, the interviewed stakeholders remarked that Member States have become more aware of the SME potential and importance of supporting these business entities. In that regard, the Definition acted together with the Small Business Act as a soft measure influencing national policies on SMEs.

The inclusion of the micro category in the Definition has **contributed to an increased focus on micro companies** in EU legislation. Micro companies are an important part of the EU business environment and are being prioritised in the context of EU support and State Aid policies[233], the Accounting Directive; they also benefit of reduced fees for e.g. European Chemicals Agency and European Medicines Agency. These concessions follow the Commission policy to exempt micro-enterprises from EU legislation wherever possible or introduce special regimes so as to minimise the regulatory burden on them, and the Definition has been instrumental in streamlining that support.

The Definition contributed to the **development of a level playing field for SMEs in the EU**. The importance of having a common set of rules defining SMEs at EU level was invoked in the considerations of the Recommendation. The argument was that certain programmes (e.g. Structural Funds) providing support to SMEs, are based on 'interactions between national and Community measures'. Therefore, having clarity and coherence across EU policies and interventions are fundamental aspects, as several EU support measures are managed or deployed through national intermediaries (e.g. managing authorities, financial and other intermediaries, etc.). In this sense, the Definition helped ensuring that SMEs across Europe have equal opportunities to access EU support measures. Exceptions to the uniformity of application of the Definition are mainly related to interpretation of the rules on ownership.[234]

In relation to State Aid policy[235], the General Block Exemption Regulation ("GBER") makes use of Recommendation 2003/361/EC to limit the freedom of Member States to decide which companies can benefit from specific State Aid measures falling under the scope of said Regulation. Incorporating Recommendation 2003/361 into the GBER in a legally binding way was necessary to ensure its uniform application throughout the internal market. Also other State Aid guidelines, for instance the ones on aid for research,

[233] e.g. in the European Agricultural Fund for Rural Development, the European Maritime and Fisheries Fund, regional State Aid rules.

[234] See section ''To what extent is the Definition uniformly interpreted and applied by public administrations and granting authorities').To what extent is the Definition uniformly interpreted and applied by public administrations and granting authorities'.

[235] A fitness check on State Aid policy is ongoing. See the publication of an inception impact assessment in January 2019. https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-6623981_en

development and innovation[236], on aid for environmental protection and energy[237] and on access to risk finance[238], rely on the Definition when allowing for more flexibility in State funding of small and medium-sized companies. It should be noted that also other definitions relating to company size are relied upon, for example “mid-caps”, “small mid-caps” and “innovative mid-caps”[239] and “small and innovative enterprises”[240].

In conclusion, the Definition has **limited the proliferation of different SME definitions** across the European Union and contributed to a large extent to the shared understanding of the concept of SMEs throughout different interventions and a harmonisation of related practices.

7. Lessons learned and Conclusions

Lessons learned

This evaluation confirmed that the SME definition remains a relevant and fit for purpose tool to identify the enterprises most confronted with disadvantages due to their size. It has also clearly been effective in limiting the proliferation of SME definitions at both the EU level and in the Member States and thus contributed to levelling the playing field for SMEs. No evidence was found that points to a need for revision.

The definition works well for the overwhelming majority of enterprises and is easy to apply in the bulk of cases. Difficulties arise in the assessment of companies with complicated and/or foreign ownership structures. Better access to data, increased use of digital tools, enhanced awareness of existing support and more user-specific guidance in the User guide are therefore considered important.

Most issues identified during the evaluation are not specifically attributable to the SME definition and would not necessarily be appropriately addressed by a revision, for instance:

- the claim made by a limited number of companies with very specific features (majority VC ownership, public participation or active in labour-intensive sectors) that certain rules in the definition would prevent them from benefitting of reduced fees or administrative burden;
- perceived lock-in effects that would rather have to be assigned to national policies such as labour law or taxation.

These very specific issues might be better examined within their particular policy context in order to address them, while ensuring consistency and equal treatment in view of the horizontal SME Definition. The temporary State Aid framework for example allows Member States to address companies of all sizes they deem in need of support.

---

[236] Communication from the Commission on the Framework for State Aid for research and development and innovation, OJ C 198, 27.6.2014, p. 1.

[237] Communication from the Commission on Guidelines on State Aid for environmental protection and energy 2014-2020, OJ C 200, 28.6.2014, p. 1.

[238] Communication from the Commission on Guidelines on State Aid to promote risk finance investments, OJ C19, 22.1.2014, p. 4 (“the Risk Finance Guidelines”).

[239] See point 52 (xviii), (xx) and (xxvii) of the Risk Finance Guidelines,

[240] Article 22.5 GBER.

There is a distinct call for a tailor-made definition fitting companies that have outgrown the SME definition ceilings.

Conclusions

The SME Definition is still relevant, fit for its purpose, and has been effective in its aim of identifying the enterprises most confronted with disadvantages due to their size. Within the overall context of SME policy, the evaluation has not found evidence that points to a need for a revision of the Definition. While comprehensive data is not yet available, preliminary estimates of the impact of the Covid crisis corroborate the present conclusions.

Although certain issues were identified during the evaluation, these are often not specifically linked to the SME definition, and would not necessarly be appropriately addressed by revising it. In this context, it could be useful to further examine the concrete problems and which policy instruments would be better suited to address them. It could also be useful to facilitate the application of the current definition and address issues flagged by certain sectors.

Relevance of the SME Definition to small and medium-sized enterprises in the EU

The three size categories captured in the Definition are generally considered to be relevant and appropriate. There is some demand for focusing even further on the smallest companies (sole entrepreneurs and companies with up to 1-3 employees), that are predominant in certain Member States. However, the Definition as it stands does not prevent Member States to target those categories and we have therefore not identified a need to change the size categories in the Definition.

The three criteria on which the Definition builds (staff headcount, financial data and ownership) are generally considered appropriate and adequate to capture the specificities of SMEs.

The majority of stakeholders confirmed that the staff headcount ceiling should remain unchanged. The evolution in average staff headcounts for the different SME categories since 2003 is small and also does not point to a need for updating that ceiling. Estimations on the impact of the Covid crisis point to a decrease of -1.7% in SME employment in 2020 – a falling trend being visible across all SME size classes. The average number of people employed per SMEs is also estimated to have fallen. Certain sector associations call for more flexibility in the use of the headcount criterion to cater for labour-intensive companies. The current definition already intends to address this matter by offering a free choice between financial indicators. As the issues flagged are very sector specific, it might be useful to study them in more detail and further analyse which policy tools could better attend them.

Regarding the question whether the Definition is in line with economic developments in order to avoid SMEs losing their status due to inflation or productivity growth, the analysis confirms the sustained relevance of the current ceilings. For every size-class (micro, small and medium), average turnover remains well within the ceiling and has not even reached the midpoint of the set limits. The fact that, as a result of the current crisis, turnover, balance sheet and employment are going down for the bulk of enterprises and that it will take time to recover to the pre-Covid level, further confirms the present conclusions. The levels of the asset turnover ratio stabilised in recent years and changes in inflation appear to have a limited impact on the population of companies moving from medium-sized to large scale. A simulation on the basis of Orbis data estimated that between 2003 and 2015, some 10 000 companies had grown out of the SME category because of inflation. This is a very modest figure compared to the overall number of 25 million of EU's SMEs.

It results from the above that the average turnover/balance sheet total of SMEs is still well below the threshold and the Definition continues capturing the relevant enterprises in the large majority of cases. The ceilings of the Definition are therefore considered to be in line with economic developments.

The majority of stakeholders are also in favour of the existing ownership criterion. Certain companies have questioned specific rules on public ownership or Venture Capital participation that prevent them from benefitting of the SME status and/or possibly losing access to certain Covid-related support measures. The Commission addressed this issue by allowing Member States to provide support to all companies (including those not covered by the Definition) under the Temporary State Aid Framework. In addition, other State Aid provisions are temporarily relaxed to ensure that as many micro-companies, start-ups and scale-ups are able to get the support they needed.

It results from the above, that the Definition is still relevant for its purpose, including for State Aid, where a consistent definition across various sets of rules (GBER and Guidelines) will be maintained, despite the ongoing review of some them.

Effectiveness

The SME Definition has been effective in its aim of identifying the enterprises most confronted with disadvantages due to their size, although opinions are divided on whether the ceilings as such are appropriate. The inclusion of the micro category in the Definition has contributed to an increased focus on these companies in the EU.

On the other side of the spectrum, some stakeholders point to the need for recognition of the mid-cap enterprises as a separate category. These are seen as a very specific segment of companies that do not fit the ceilings set by the Definition, but are not 'large' enterprises either. In this context, it could be useful to look into the specific challenges that these companies meet once they have 'outgrown' the SME-fase, examine their needs and analyse whether there are policy gaps that could be addressed.

The evaluation did not identify significant problems with the rules or ceilings regarding companies that are (co-) owned by public entities or those in which a Venture Capital Fund takes a majority participation.

While the SME Definition is perceived as clear in the large majority of cases, there is a distinct call for clarification of the rules on ownership and further guidance on certain key concepts, in particular when dealing with complex ownership structures. Since the overwhelming majority of EU SMEs are autonomous, in practice, this issue affects a very limited number of companies. As the ownership criterion itself is considered apropriate by the majority of stakeholders, it could be useful to study further ways to address this call for guidance with a view to improve the coherent application of the Definition.

The Definition has been successful in limiting the proliferation of definitions of SMEs at both EU level and in the Member States and contributed to levelling the playing field for SMEs. It is widely used and referenced in various EU legal acts, policy documents and intervention guidelines. Some areas, such as the financial markets regulatory framework however, use a specific approach to what is considered an SME in that context.

From the above, it is evident that the Definition has been effective for most EU policy areas.

Efficiency

The cost to verify the SME status of a company is modest for the overwhelming majority of cases (which concern small autonomous companies), but increases for non-autonomous undertakings, especially those with complex ownership structures and when documentation has to be retrieved from other Member States or non-EU countries.

The burden to provide the necessary proof is in general seen as proportionate to the benefits derived from the status, but again there is a link with the complexity of the ownership structure.

Stakeholders suggest that:(a) the Definition could be applied more efficiently through e.g. an overall increase in the digitalisation of SMEs as well as public administrations (increased use of digital tools, sharing of databases), (b) existing support (such as the online self-assessment tool of DG GROW, the State Aid wiki platform of DG COMP[241]) is not sufficiently visible which means that awareness raising about it could be enhanced, (c) more user-specific guidance in the User guide to the SME Definition would be welcome and (d) the access to company data could further improved. The further development of the business registers inter-connection system (BRIS) and the European Single Access Point (ESAP) could offer opportunities to improve the use of digital tools between SMEs and public administrations as well as access to and use of more company data.

Stakeholders suggest that:(a) the Definition could be applied more efficiently through e.g. an overall increase in the digitalisation of SMEs as well as public administrations (increased use of digital tools, sharing of databases), (b) existing support (such as the online self-assessment tool of DG GROW, the State Aid wiki platform of DG COMP[242]) is not sufficiently visible which means that awareness raising about it could be enhanced, (c) more user-specific guidance in the User guide to the SME Definition would be welcome and (d) the access to company data could further improved[243]. The further development of the business registers inter-connection system (BRIS) and the European

[241] Online exchange of information between DG COMP and MS governments

Single Access Point (ESAP) could offer opportunities to improve the use of digital tools between SMEs and public administrations as well as access to and use of more company data.

Coherence

The Definition is well integrated into EU legislation and provides the necessary flexibility to adapt to the requirements of particular policy areas and individual target groups. There may be some scope for alignment between the Definition and the Accounting Directive, in particular concerning the calculation of the staff headcount.

The Definition is widely used by EU Member States, with more than half of them directly applying it. In the remaining Member States, the national definitions resemble the EU one, but apply variations on some aspects (mainly turnover and balance sheet ceilings) to adapt to their own specific economic structure.

SME definitions vary significantly between the EU and its key trade partners (US, Japan, China and Russia). Most have a sectoral approach and apply higher ceilings, thus granting the SME status to companies that would be considered large companies according to the EU Definition. Stakeholders generally did not note problems linked to the co-existence of these definitions when operating abroad.

The 2-year grace period is considered useful and overall adequate to allow enterprises to confirm their growth, change in size and adapt to the set of legal obligations that come with this change. Some stakeholders have however asked for a prolongation to prevent the "lock-in" effect of the SME definition. In this context, the SME Definition in itself does not seem to cause such an effect by which companies would choose maintaining their SME status and the benefits that come with it, rather than growing beyond the ceilings. Problems related to operating cross-border and access to finance are actually bigger obstacles preventing SMEs from scaling up than the loss of the SME status. The Commission is proactively addressing these barriers in the SME Strategy. Perceived lock-in effects would also seem to be caused by national policies, such as labour market regulation and taxation.. Therefore, it would be more adequate to address these issues in their particular policy context.

In addition, any quantitative ceiling comes with an inherent risk of a lock-in effect and it is thus not very likely that a change would eliminate this rather than simply move it. An analysies of the particular challenges faced by companies that have outgrown the SME ceilings and moved into the so-called mid-cap category, could be carried out to assess these issues in more detail.

Certain stakeholders suggest that the rules on ownership affect the attractiveness of venture capital, equity investment and business angels financing for start-ups and scale-ups. The information gathered within this evaluation points to less than 1% of SMEs having a venture capital investor with a majority stake in their company. The specific rule therefore impacts a very small number of enterprises. Furthermore, there is no evidence that the Definition has a pivotal role in limiting equity investment in SMEs that would point to a need to revise the rule. It is important to underline that improving access to equity capital and financing in Europe is a key element of the recent SME Strategy which provides for the appropriate policy measures to address this very specific issue.

EU added vale

The Definition has been successful at limiting the proliferation of different SME definitions across the European Union and contributed to a large extent to the shared understanding of the concept of SMEs throughout different interventions such as the cross-cutting SME Strategy for a sustainable and digital Europe as well as to a harmonisation of related practices.

ANNEX 1

PROCEDURAL INFORMATION

In July 2017, DG Internal Market, Industry, Entrepreneurship and SMEs launched an evaluation of the Definition (Recommendation 2003/361/EC) with the intention of preparing for a revision if such need is confirmed by the findings of the evaluation.

The evaluation was supported by an external study. This study was contracted to the Danish Technological Institute in July 2017 and ended in December 2018.

An inter-service steering group was set up at the launch of the evaluation. All Directorate Generals were invited to participate in the group. The group met nine times during the evaluation process. A final meeting was set up to discuss the Staff Working Document.

The Decide reference number for this evaluation is PLAN/2021/10523.

ANNEX 2

STAKEHOLDER CONSULTATION – synopsis report

The present synopsis resumes the main inputs received from all consulted stakeholders during the evaluation[244], namely:

- 974 replies to the Public Consultation (open from February to May 2018). Almost a third (32%) of respondents come from Germany, followed by France (18%) and Italy (9%). Around 83% of the respondents represent either enterprises (43%) or organisations (40%), while 17% are individuals. 89% of enterprises have less than 250 employees: half of them are autonomous SMEs, 15% are part of a larger group and about a fifth are not considered to be SMEs. The participating enterprises are widely distributed on different sectors, with the largest groups in the manufacturing sector (7%) and professional, scientific and technical activities (7%).
- 5651 replies to the targeted SME survey (from December 2017 to March 2018). 57% of the replies came from micro, 30.7% from small and 10.9% from medium enterprises. Only 1.4% of large enterprises answered to the survey. A large majority of those respondents are classified as autonomous SMEs (66%), while 12% of them are linked and/or partner enterprises. 4% of the respondents are not SME. The most represented sector is "Manufacturing" (1/5 of replies), followed by "Professional, scientific and technical activities".
- 141 in-depth interviews with stakeholders at EU level (Commission Officials and Research and Executive agencies; EIB/EIF representatives; EU level associations) and at national level (Public authorities, National agencies applying the Definition National SME associations; National financial intermediaries; National COSME intermediaries; Venture capital/ Business angels' representatives).
- 136 Position Papers (113 uploaded in the context of the Public Consultation and 23 as feedback to the Roadmap[245]). More than half were submitted by national associations (52%), followed by international associations (17%). 37% of all contributions are from Germany, and by far the largest individual group seen across both countries and types of respondents were national associations from Germany (28%).

The different consultation activities did not always cover the same issues. In particular, the SME survey focused on the burden to prove the SME status and its benefits, while the public consultation was more general. It should be noted that, after a specific analysis, the SME Survey's results were not significantly biased by the large number of answers from one specific Member State.

---

[244] More information can be find in Annex 8 and Annex 12 of the study The evaluation study for the revision of the 'SME Definition - To be published on https://op.europa.eu/en/home

[245] Half of them came from the stakeholders that also submitted a Position Paper during the Public consultation

1. General Opinions on the current SME Definition

Public consultation

79% of respondents agree that the Definition identifies enterprises facing challenges due to their size. The group that tends to agree least (and disagree most) are the non-SME enterprises (that represent 1/5 of the total respondents).

86% agree that the Definition helps to make targeted SME policies across the EU. 77% agree that the Definition is a useful tool to improve equal treatment of SMEs throughout the EU and 94% agree that the Definition helps to limit proliferation of different definitions.

2. Ceilings and criteria

The stakeholders were asked whether the criteria staff headcount, financial parameters are appropriate to determine if an enterprise is a genuine SME.

Public Consultation

68% of the participants agreed that these criteria are appropriate. However, 57 % of the respondent group ‘non-SMEs’ (i.e. companies that are not considered SMEs according to the SME Definition) had a significantly different opinion: around 150 suggested a sectoral or geographical approach – generally using the same criteria but establishing different ceilings relating the ceilings to national/regional conditions. Only a few handfuls suggested different criteria, among which the most popular were productivity, degree of innovation and ‘market relevance’.

More than half of the respondents did not think that any combination of 2 out of the 3 criteria (e.g. meeting only the 2 financial parameters, but not the headcount limit) would be more appropriate to determine whether a company is an SME, while only 28% thought that it would. EU level organizations and private individuals were much more inclined to think that any two of the three criteria would be appropriate than the other types of respondents.

The participants were asked whether the financial ceilings should be raised to reflect inflation and real labour productivity. 29 % were of the opinion that the ceilings should not be raised, 42 % thought that both inflation and productivity should be considered (only inflation for 13 % and only productivity for 2 %), 49% believes that the staff headcount ceiling should be kept as it is, whereas 20% believes that it should be increased while almost exactly the same share, 19% think it should be lowered, and only 3% thinks that the headcount ceiling should be eliminated. 62% agreed that the current three size categories (micro, small, medium-sized) are appropriate, while 27% disagreed. The group least likely to agree was the non-SMEs.

Opinions from the position papers

A large group (21 papers) is not in favour of raising the headcount ceilings, but a slightly larger group (29) are in favour of raising it (up to the double); out of these more than two thirds are German or France associations (where medium-sized companies are included in the national SME definition). Few papers suggest raising the ceiling to 750 or even 1000 employees. Many also argue for taking inflation and productivity increases into account.

Several papers suggest a sector-based approach in order to redress competitive disadvantage (for example, in US biopharmaceutical SMEs can have up to 500 employees). A couple of papers suggest removing the criterion completely due to the differences between sectors and the volatility of the number of staff. Other three papers suggested to introduce the criteria based on turnover per employee ranging from EUR 25,000/ to EUR 200,000.per employee.

Several papers call for inclusion of qualitative criteria, either replacing or supplementing the quantitative ceilings, e.g. economic and legal independence of the company; interdependence of property, control and management; personality of the company management; innovation effort, etc. The market share criteria is also suggested because it suits more in sectors, like the tobacco or biopharmaceutical sector which are dominated by a small handful of very large players and a larger number of relatively smaller players (who are nonetheless not SMEs according to the current definition).

Opinions from the SME survey

The overwhelming majority of the respondents (82.4%- 4,656 out of 5,651) stated that the current categories cover the specificity of their enterprises.

71 % of respondents found the financial parameters appropriate; 8 % suggested a range of alternatives, such as gross margin, cash flow, turnover/employee ratio, only turnover or suggested considering the geographical location, sector or size of the market. Finally, some respondents considered that the choice between the two financial parameters allows companies with high turnover but small investments to be (unduly) considered as SMEs.

Concerning the current ceiling of the financial criteria, 40% think that they should be raised to reflect both inflation and real labour productivity, while for 21% they should remain as they are.

3. **Venture capital and business angel investment**

As part of the ownership rules, the conditions for venture capital (VC), equity investment and business angel (BA) investment are considered by a significant number of contributors.

Opinions from Public Consultation

The opinions are much divided. Approximately equal shares of respondents agree (37%) and disagree (41%) that the ceilings for the participation of VC and BA are appropriate. Opinions are similarly divided when it comes to whether the ceilings should be substantially increased, and on whether the ceilings should be removed. A small majority agrees that the rule may discourage SMEs from seeking private investment and that the rule may hinder venture capital investment in SMEs (51% in both cases).

Position Papers

The overwhelming majority of papers (17 out of 3) that addressed this issues consider that the rules should be either completely abandoned or a distinction should be introduced between the investments made by private equity/venture capital funds and the typical corporate groups. In the first case the manager of a private equity fund does not have a common strategy for all the companies in which it has invested that remain strict separated. Several papers suggest to consider a linked company only in case of trust fund investment and not for risk-capital investment. As general rule this latter that provides funds to linked enterprises that are run as independently.

Several papers comment on the ceiling for business angels amounting to € 1,250,000 as arbitrary and consider that it should be eliminated.

Two associations (one German, one international) related to the biopharmaceutical sector propose to facilitate VC financing by increasing significantly the ceilings for BA/VC investors (in particular, by VC Funds and Family Offices). The same applies to the affiliated companies.

SME survey

The message from the respondents was not clear: 30 % indicated that the rules are appropriate, while 14 % stated that they are not and 56 % did not know. Among companies that have venture capital investors (144 companies, constituting 2.1 % of the survey respondents), the opinions are different: 53 % thought that the provision was not appropriate, while only 17 % thought that it was. Among these 144 survey participants, 60 % reported that the VC owns less than 50 % of their business, while 35 % indicated that the VC investor owns more than 50 %.

4. **Public ownership and Local Public Service Providers (LPSEs)**

Opinions from Public Consultation

Almost half (48 %) of respondents agreed that the current ceiling limiting public ownership to 25% is appropriate, while 38 % disagreed (14 % didn't know). Opinions are also quite divided as to whether the ceiling should be removed. The results are somewhat influenced by strong disagreement among non-SME public companies (almost exclusively from Germany) and national associations, which also have a large German contingent.

Position papers

Among the 25 papers that comment this issue, 11 (from different countries and types of organizations) consider that the current rules should be maintained. The rest (mainly German associations of public (or public-oriented) companies and regional authorities) consider that exclusion of enterprises owned by public entities is unjustified and/or that the current ceiling is too low.

Interviews

This issue was raised by stakeholders from Member States (mostly France and Germany) where these forms of LPSE are widely used. Five associations representing publicly-owned enterprises thus argue that LPSEs in effect operate in competitive markets and face the same difficulties as privately owned companies, and should thus not be excluded from SME status.

SME survey

A little over 2 % (117) of the SME survey participants represented companies controlled (directly or indirectly) by a public body. Among these, 35 % share the opinion that the rule limiting public ownership is not appropriate, while 17 % think it is and 48 % do not have an opinion. However, among all survey respondents, 34 % considered this provision appropriate, 11 % did not consider it appropriate, and 54 % did not have an opinion.

5. **Ownership rules – partner/linked enterprises**

This issue concerns whether all relationships (direct and indirect partner and linked enterprises) should continue to be taken into account when determining the real economic capacity of an SME.

Opinions from Public Consultation

61% of respondents agree with the current rules. The group most likely to disagree are EU level organisations.

Position Papers

Almost 50 papers (widely distributed across countries and types of respondents) comment on these rules and the large majority (41) propose changes. Some simply call for clarification, while the large majority want the rules changed. One paper suggests a single limit, regardless whether the relationship is with a public or with a private institution. Several papers suggest to use the definition of "single undertaking" applied in the State Aid de minimis Regulation[246].

A couple of papers from international associations highlight sector-specific considerations. In the biopharmaceutical sector the exception for linked enterprises should be expanded to any kind of risk capital investor like, for *example to family owned risk capital investors.* Also, retailers that are members of a group of independent retailers should not lose their SME status because they continue to be independent legal entities at retail level. A couple of other papers mention social enterprises, specifically Work Integration Social Enterprises (WISE). The limit of 25% of capital or voting rights should not be applied to partner enterprises that are non-profit organisation/associations or a social enterprise reinvesting its profits in the WISE.

Finally, one paper addresses the issue of cooperatives that require a more complex approach than a single company.

Interviews

According to a representative of the private equity (PE) sector a large number of VC investments are so-called secondary PE acquisitions that focus on companies that already have received investments by PE equity. In this situation the company may lose the SME status. Consequently, PE investment funds (including those supported by EU programmes) are discouraged to invest in them.

SME survey

51.5% of respondents to the SME survey thought that both direct and indirect relationship should be taken into account. Among the 22 % of the respondents that was contrary, 37 % of them has a linked and/or partner enterprise and 20 % are autonomous SMEs.

[246] 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 Text with EEA relevance

6. **Grace period**

According to the 'grace period' rule the enterprises only lose their SME status if they exceed the headcount and financial ceilings for two consecutive years.

Opinions from Public Consultation

With respect to this issue, a majority of respondents (54 %) - stated that the length of the grace period (2 years) is appropriate, 25 % thought it too short, while only 8 % considered it too long.

Position papers

The majority of 19 papers that commented on this issue (12) consider that the period should be extended to 3 or 4 years to accommodate fast-growing companies. 7 papers argue that the current length of the grace period is appropriate. A few papers argue that it should be stated that enterprises that exceed the relevant SME ceilings as a result a merger or acquisition are not entitled to make use of the 2-year, "grace period".

Interviews

The majority of interviewed agreed that the grace period is useful and the length of 2 years is reasonable. Nevertheless, some of them suggested to extend the grace period to 3 years because during the crisis (with strong economic fluctuations) SME might easily move above and below the ceilings for more than 2 years. This will also allow return on investments and better reflect the life cycle of business ventures.

7. **Cost-benefits analysis** [247]

SME survey

On average, SMEs spend less than one man-day (6.5 man-hours) to collect and provide information to prove their SME status**.** 75 % of the smaller enterprises need up to half a man-day to complete the procedure, while only 64 % of the larger companies manage to do so in the same time. Ownership and its complexity tend to increase with the size of the company: 75 % of autonomous enterprises need up to half a man-day to go through the process, compared to only 52 % of enterprises that are part of a group.

Overall, 73 % of autonomous SMEs spend less than EUR 150 in total costs, against 55 % of non-autonomous ones. Overall, the low level of perceived burden does not vary substantially, spanning from 75 to 85 % respondents considering applying the definition not burdensome at all. 80 % of respondents to the SME Survey who had benefited from the SME status confirmed that the burden to provide the necessary proof is proportionate to the benefits acquired through the status.

Around 10 % of the replies analysed consider the Definition burdensome and the cost of proving to be an SME disproportionate to the benefit acquired. Comments of these respondents reveal they find too much bureaucracy is involved when using the Definition, some of the rules are too complicated or not clear.

[247] Input from stakeholders are extensively reported in 6.3 of the main document

Interviews

Some stakeholder agree that the SME status provides access to greater benefits than the cost of going through the assessment. Only a small number of interviewees from different stakeholder groups considered the costs as disproportionate, in particular for micro-enterprises.

According to some national/regional managing authorities the major difficulty is the access to data. Several ask for a simplification of the ownership criterion and for setting up a central registry of undertakings.

ANNEX 3

METHODS AND ANALYTICAL MODELS

Limitations and robustness of findings

The **statistical review** was based mainly on the Structural Business Statistics (SBS) published by ESTAT[248], which is the most comprehensive available data set covering all European enterprises by economic sector. SBS provides information on the number of SMEs, their employment, turnover and value-added with a size-class breakdown based on the number of persons employed (headcount criterion). Where possible, data is segmented by sector using the NACE Rev. 2 classification, except financial and insurance activities[249]. The SBS data are used in the SME Performance Review[250], which provides also the size, structure and importance of SMEs to the European economy, by comparing data to other years and providing forecasts for future years[251].

With reference to evaluating the SME definition, SBS presents certain limitations:

- up to 2008 the data sets used the classification 1-9 employees. This classification was formally changed to 0-9 in 2008, however without substantially changing the way data was collected. With time, it is possible that Member States revised their methods to gradually include more of the companies with 0 persons employed;
- SBS data is not broken down on turnover (except for NACE Section G, distributive trades) and contains no balance sheet information;[252]
- SBS defines SMEs solely by the number of persons employed (headcount criterion)[253] by a single company, without taking into consideration its possible group affiliations. In order to determine the number of genuine SMEs according to the EU SME Definition, the ownership structure of the enterprises should be taken into account. The official EU SME guidelines explain how to verify if an SME is part of a larger group of partner and linked enterprises. Due to their complexity, these are difficult to apply in statistical systems: statistics often use size class information based only on the number of persons employed in the enterprise itself, without looking at the turnover or balance sheet data from the group that the enterprise belongs to. SBS does not distinguish between independent and dependent enterprises which could have different conditions

248 http://ec.europa.eu/eurostat/web/structural-business-statistics/structural-business-statistics/sme

249 Annual enterprise statistics by size class for special aggregates of activities (NACE Rev. 2) [sbs_sc_sca_r2]

250 Published by DG GROW in November 2016: https://ec.europa.eu/growth/smes/business-friendly-environment/performance-review-2016_en

251 The SME Performance review of 2015-2016 was used for consistency, instead of the latest SME Performance review of 2016-2017, as the data on SMEs from Eurostat is only available until 2015.

252 Therefore, in this report, when a statement is made that there are 25 million SMEs, this actually means that there are 25 million companies with less than 250 employees.

253 Therefore, in this report, when a statement is made that there are 25 million SMEs, this actually means that there are 25 million companies with less than 250 employees.

(e.g. access to finance, bargaining power, possibilities to expand to foreign markets, and various other aspects of doing business)[254].

ESTAT has attempted to include additional variables, namely linked companies, in a statistical database. This resulted in a ESTAT pilot project, which uses a method known as Microdata Linking (MDL) to obtain further information by linking microdata from different sources. [255,256] This MDL project created linked datasets for further analysing business structures and performance, in order to perform cross-country comparisons.

Given the limitations mentioned above, the number of enterprises according to the two financial ceilings set by the EU SME Definition was estimated using the Orbis database, which gives access to microdata currently not available in ESTAT (turnover, balance sheet and ownership data). However, Orbis is a private database that collects publicly available information about companies across the globe and its coverage is limited, especially for those micro-SMEs with very few or no employees (self-employed persons).

Overall, while SBS overestimates the number of SMEs, Orbis is likely to come closer to the actual numbers. According to SBS, SMEs account for 99.8 % of all companies in Europe, while Orbis estimates that they represent around 88 % of the total population of companies.

For detailed information on the methodology applied – and its limitations - see Annex 10 of the Study.

Both the **SME Survey and the public consultation,** although not representative**,** had large numbers of answers (5,651 and 974, respectively) but both were subject to "self-selection", i.e. no controlled selection of respondents via a segmented or stratified approach aiming to ensure a balanced representation of the target groups.

The SME Survey contains a large number of answers from Portugal - more than half of all responses. The results were checked for bias (i.e. whether the responses from Portugal differed markedly from the other responses) and this was found not to be the case. In addition, throughout the analysis, the pattern of responses from different stakeholder groups has been analysed and any significant patterns have been considered.

The SME Survey enquired about costs related to verification of SME status. Respondents could enter any amount in their response to the questions, but it is well-known that it is difficult for companies to assess exactly how much they spend on specific administrative

---

[254] http://ec.europa.eu/eurostat/statistics-explained/index.php/Statistics_on_small_and_medium-sized_enterprises

[255] The study has illustrated some additional breakdowns on SMEs, which are currently not available in the official statistics. These tables contain data for six countries only (the ones that participated in the project). The MDL project linked SBS, international trade in goods statistics (ITGS) and business registers (BRs). Nine countries participated in the project, but only six were able to break down their SMEs into dependent and independent enterprises in size classes: Denmark, Finland, Germany, Latvia, the Netherlands, and Norway). Microdata linking in business statistics is a Eurostat online publication: http://ec.europa.eu/eurostat/statistics-explained/index.php/Microdata_linking_in_business_statistics

[256] http://ec.europa.eu/eurostat/statistics-explained/index.php/Statistics_on_small_and_medium-sized_enterprises

procedures. The cost figures provided by the companies are usually estimates, which often vary considerably even for companies with similar characteristics in similar situations. Outliers were identified using statistical methods and excluded from the cost calculations.

The public consultation contained multiple uploads of essentially identical position papers by different stakeholders. Where the analysis showed that the composition of respondents may have significantly influenced the results concerning particular issues, this has been taken into consideration and noted when presenting the results.

The findings of this analysis have been backed by the 2019 SAFE survey[257] and the most recent flash Eurobarometer (published in September 2020[258]).

Representative figures on the consequences of Covid were not yet available at the time of drafting this document, but are expected to further confirm rather than contradict the conclusions.

The **literature** identified several key issues affecting SMEs, although very few studies have analysed the differences between the size classes covered by the Definition.[259]

---

[257] https://ec.europa.eu/growth/access-to-finance/data-surveys_en
[258] Eurobarometer 486 SMEs, start-ups, scale-ups and entrepreneurship 2020
[259] OECD. (2017a). Small, Medium, Strong. Trends in SME performance and business conditions.

ANNEX 4

While the external study supporting this evaluation was based on the available data at the time (2015), this document is based to the possible extent on 2018 data. Calculations of averages are mostly based on EU-28 numbers, as the UK was still a Member State at that time.

Economic developments over the period 2003-2018 important for the evaluation

Over the period 2003 – 2018, certain economic developments took place within the European Union that are important for the purpose of this evaluation:

- between 2003 and 2013, the enlargement with 12 new Members brought to the EU an additional 4.600.000 SMEs, employing 18.5 million workers and accounting for EUR 286 million in value added[260];

- the 2008 financial crisis occurred, which affected the economies of the majority of EU Member States in general and SMEs in particular to varying degrees. The impact on SMEs depended not only on the macro-economic situation, but also on factors such as the sector in which they operated. Despite the crisis and the specific hit on these enterprises, there are Member States where the SME sector expanded during this period.[261]

Also the recovery from the crisis did not happen evenly in all Member States. In six of them, the 2017 level of SME value added was still below its 2008 level[262]. In 15 Member States the SME employment in 2017 had not reached its 2008 level[263].

Overall, SMEs made an important contribution to the recovery and subsequent expansion of the economy. From 2008 to 2017, they accounted for 47% of the total increase in the value added generated by the non-financial business sector and for 52% of the cumulative increase in employment in the sector.

[260] Due to data availability limitations, based on 2013 figures for HR and 2008 figures for all other acceding countries.

[261] In Germany, the Netherlands and Norway, all size categories of SMEs grew during the crisis period. In other countries, such as Belgium and Estonia, only the micro companies expanded while the other size categories decreased. In Spain, even though some sectors were more affected than others, the numbers of SMEs remained constant.

Eurofound study : https://www.eurofound.europa.eu/publications/report/2011/smes-in-the-crisis-employment-industrial-relations-and-local-partnership-2

[262] Croatia, Cyprus, Greece, Italy, Portugal and Spain.

[263] Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, France, Greece, Ireland, Italy, Latvia, Lithuania, Portugal, Romania, Slovenia and Spain

- the euro was officially launched on 1 January 1999. At the same time, the euro area came into operation and monetary policy passed from national banks to the European Central Bank (ECB). Euro coins and banknotes were launched on 1 January 2002 in the 12 participating EU Member States at that time[264]. Since the EU SME definition became applicable, 7 more Member States introduced the euro[265].

It is not possible to take into account the most recent economic developments due to the Covid crisis.

SMEs STATE OF PLAY

Size and distribution of the EU SME population

The available statistical data do not allow the verification of all the criteria foreseen in the SME definition. The most used approximation is based only on the number of employees, leading to a probable overestimation of the number of SMEs: in 2018 almost all enterprises in the EU had less than 250 employees, and companies with less than ten employees made up 92.9 % of all European enterprises. While overall the number of SMEs increased between 2003 and 2017 by over 30 %, the share of micro-enterprises increased most, contrasted by a decrease in the shares of small- and medium-sized enterprises.

Table 12- Number of enterprises by size class in the EU in 2003 and 2018 and distribution across different categories (ESTAT)

Category	2003		2018		2003-2018 % change within category	2003–2018 % change in share of all enterprises
	Absolute Number	% share of all enter-prises	Absolute Number	% share of all enter-prises		
0-9	17 201 020	91.69 %	22 917 109	93.10 %	33.2 %	1.5 %
10-49	1 318 132	6.99 %	1 425 199	5.79 %	8.1 %	-17.3 %
50-249	209 470	1.10 %	229 375	0.93 %	9.5 %	-15.5 %
<250 Total	18 737 184	99.78 %	24 571 683	99.82 %	31.1%	0.04 %
≥250	41 726	0.22 %	43 923	0.18 %	5.3 %	-18.2 %
EU Total	18 769 628	100.00 %	24 615 606	100.00 %	31.4 %	-

Source: ESTAT [sbs_sc_sca_r2] extracted on 18/03/2021
Data from 2003: SBS statistics for EU 27 and national statistics for Croatia[266]

[264] Austria, Belgium, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal and Spain.
[265] Slovenia (2007), Cyprus and Malta (2008), Slovakia (2009), Estonia (2011), Latvia (2014) and Lithuania (2015)
[266] http://www.cepor.hr/projekti/SME.pdf

ESTAT has attempted to include additional variables, namely linked companies, in a statistical database that covers a limited number of EU Member States[267]. This pilot project concludes that:

- enterprises employing fewer than 250 persons are a very important part of the economy, as they represent around 99 % of all enterprises and employ an increasing number of persons.
- most enterprises employing fewer than 250 persons (about 94 %) are independent;
- dependent enterprises are important in terms of employment and turnover, especially in Denmark, Estonia, Latvia, Finland, Sweden and Norway. Therefore, a large proportion of total growth (measured in employment and Gross Value Added) created by SMEs can be attributed to dependent enterprises.
- 0.4 % of the enterprises that employ fewer than 250 persons belong to a group that employs 250 or more persons. Therefore, these enterprises are large enterprises according to the SME definition. They contribute significantly to employment and turnover, especially in Croatia, Finland and Sweden.[268]

The Orbis database allowed for another estimation of the number of SMEs in the EU using all three ceilings (headcount, turnover, balance sheet) (2015 figures – see annex 10 to the study). When also applying the ownership criterion to Orbis data (i.e. including downstream and upstream partners and linked companies), more than 10 % of enterprises that would otherwise be counted as SMEs (more than two million enterprises) could possibly be excluded. This would lead to an estimation of SMEs representing around 88 % of the total population of companies. While the distribution by size results in a slight shift towards medium and small companies, the overall number of SMEs decreases very little compared with the ESTAT figures mentioned above. There are however a number of limitations to the reliability of this estimation. See *Annex 3*

METHODS AND ANALYTICAL MODELS' for more information on these limitations.

[267] This resulted in a Eurostat pilot project, which uses a method known as Microdata Linking (MDL) to obtain further information by linking microdata from different sources. This MDL project created linked datasets for further analysing business structures and performance, in order to perform cross-country comparisons. In the MDL study, a dependent SME is defined as an enterprise that employs fewer than 250 persons and for which the business register shows that it belongs to an enterprise group. Depending on the share owned by the parent company and the characteristics of the group as a whole, an SME that is part of a group may still fit under the SME ceilings.

[268] https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Statistics_on_small_and_medium-sized_enterprises#SME_definition

Table 13 - Estimated SME population using Orbis data (2015), compared with ESTAT data (2018)

SME category	Estimated number (Orbis, 2015)	Estimated distribution across categories % (Orbis, 2015)	ESTAT absolute number 2018	ESTAT % distribution across categories
Micro	20 565 629	89.4 %	22 917 109	93.10 %
Small	2 001 353	8.7 %	1 425 199	5.79 %
Medium	345 061	1.5 %	229 375	0.93 %
SMEs	22 935 047	99.7 %	24 571 683	99.82 %
Non-SMEs	69 012	0.3 %	43 923	0.18 %
Total	23 004 059[269]	100.0 %	24 615 606	100.00 %

Source: VVA calculation using Orbis data. ESTAT data: same as previous table

Employment and staff headcount

From 2003 to 2018, the overall total employment increased in the EU-28[270]. Employment growth is observed within all size classes in such a way that the relative distribution of employment between the size classes has remained unchanged (See Table and **Error! Reference source not found.**). While the number of SMEs increased by 31.1 % during that period, the number of people employed by them only grew by 9 %. For large companies, their number increased by 5.3 %, while the number of persons employed increased by 18 %.

Table 14 - Number of persons employed in EU by size class, 2003 and 2018

Category	2003	2018	% change 2003-2018
0-9	36 606 366	41 194 651	13 %
10-49	25 320 992	26 482 072	5 %
50-249	20 809 945	22 357 118	7 %
SME Total	82 737 303	90 033 841	9 %
≥250	41 492 609	48 816 282	18 %
EU Total	124 229 909	138 850 123	12 %

Source: The data in the table is a combination of two sources:
Data from 2018: ESTAT [sbs_sc_sca_r2] extracted on 28/03/2021
Data from 2003: SBS statistics for EU 27 and national statistics for Croatia271

[269] The simulation is based on statistics available in the Annual Report on European SMEs 2015 / 2016 https://ec.europa.eu/docsroom/documents/21251/attachments/1/translations/en/renditions/pdf

[270] Data from 2003 including the then EU Member States with national data added from additional Member States that were part of EU-28 in 2015.

[271] http://www.cepor.hr/projekti/SME.pdf; https://repozitorij.agr.unizg.hr/islandora/object/agr%3A651/datastream/PDF/view

The average number of persons employed in SMEs (staff headcount) has decreased from 4.4 persons in 2003 to 3.7 in 2018 (Table). Looking at the different size classes, the average number of persons employed in micro-enterprises decreased (2.1 persons in 2003 vs 1.8 persons in 2018), and to a lesser extent in small and medium-sized enterprises (by -3.1 % and -1.8 %, respectively). This finding points to a possible increase in one-person micro-enterprises in the EU[272].

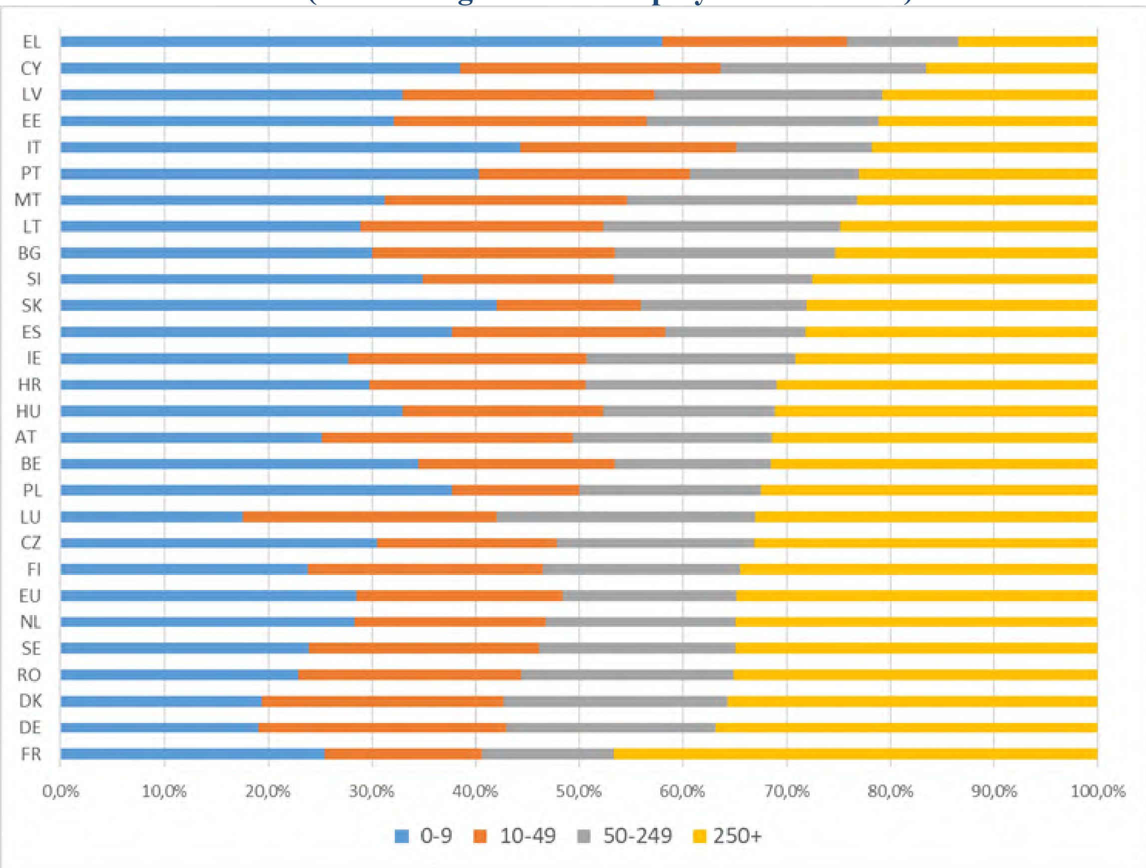
Table 15 - Average enterprise employment (staff headcount) by SME size class in EU28, 2003 and 2018

Category\Year	2003	2018	% change 2003 - 2018
0-9	2.1	1.8	-14.2 %
10-49	19.2	18.6	-3.1 %
50-249	99.3	97.5	-1.8 %
SME Average	4.4	3.7	-15.9 %
≥250	994.4	1111.4	11.8 %
EU Average	6.6	6.0	-9.1 %

Data from 2018: ESTAT [sbs_sc_sca_r2] extracted on 28/03/2021
Data from 2003: SBS statistics for EU 27 and national statistics for Croatia[273]

[272] The figures may however be influenced by the fact that some countries have changed their data collection methods so that SME statistics now include the self-employed (0 employees).
[273] http://www.cepor.hr/projekti/SME.pdf; https://repozitorij.agr.unizg.hr/islandora/object/agr%3A651/datastream/PDF/view

Graph 4 - MemberState Distribution of Employment by enterprise Size Class in 2017 (Descending Share of Employment in SMEs)



Source: Eurostat, Annual Report on European SMEs 2018-2019

Productivity

Table 16 shows the percentage changes in employee productivity between 2003 and 2018. All SME categories are more productive than in 2003, on average by 30 %. Over the same period, large enterprises increased their productivity by 40 %, further enlarging the productivity gap with SMEs. For reference, the 2012 Evaluation found that the productivity increase for SMEs between 2003 and 2008 was only about 6 %.

Table 16 - Average apparent labour productivity[274] at constant prices in EUR (2018 level) (Value added per employee)

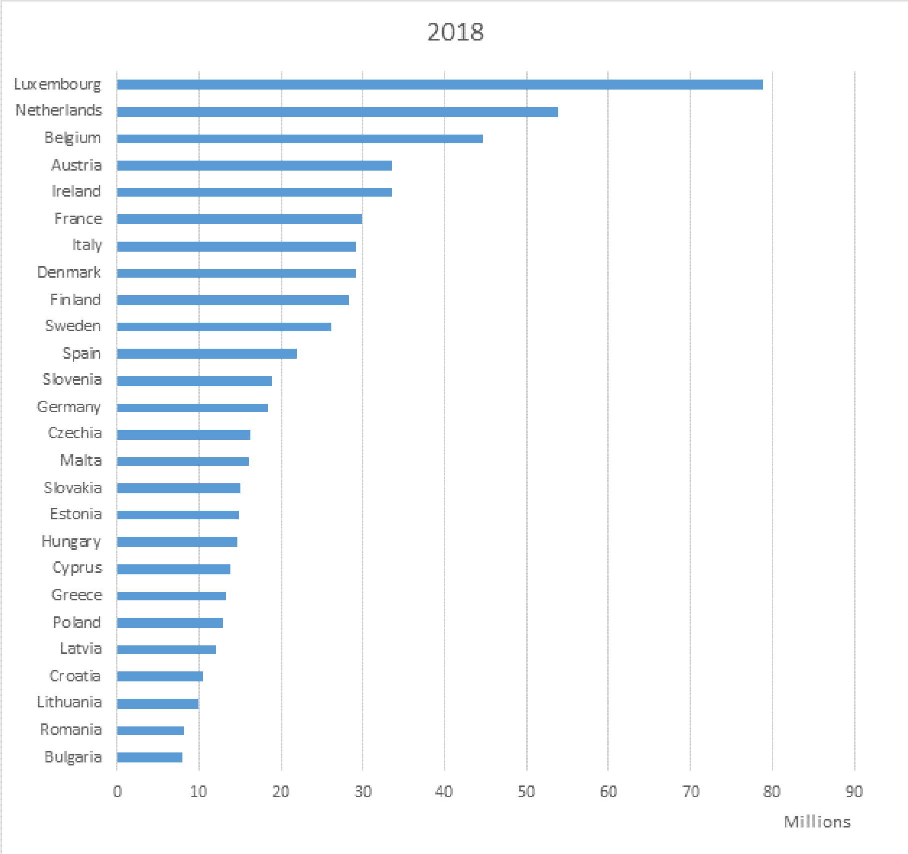
Category	2003 ('000 EUR)	2018 ('000 EUR)	% change
0 – 9	27.2	36.9	36 %
10 – 49	36.5	44.2	21 %
50 - 249	42.0	57,1	36 %
All SMEs	33.8	44.0	30 %
250 +	50.6	70.7	40 %
Total	39.4	54.3	38 %

Source: VVA/DTI calculation based on data from CSES (2012) Evaluation of the SME Definition, Final Report and European Commission: SBA fact sheets 2017, https://ec.europa.eu/docsroom/documents/29489 and ESTAT HICP (2015 = 100) - annual data (average index and rate of change) [prc_hicp_aind]

[274] Apparent labour productivity is defined as value added at factor costs divided by the number of persons employed. Source: Eurostat glossary, http://ec.europa.eu/eurostat/statistics-explained/index.php/Glossary:Apparent_labour_productivity_-_SBS

Differences across Member States and economic sectors

Graph 5 – Estimated average turnover of companies employing between 50 and 249 employees (EUR million), 2018[275]



Data from ESTAT [sbs_sc_sca_r2] extracted on 25/05/2021

Sector-wise, two main different business models need to be considered:

- Capital intensive: characterised by high financial figures and a low number of employees;

- Labour intensive: characterised by low financial figures and a large number of employees.

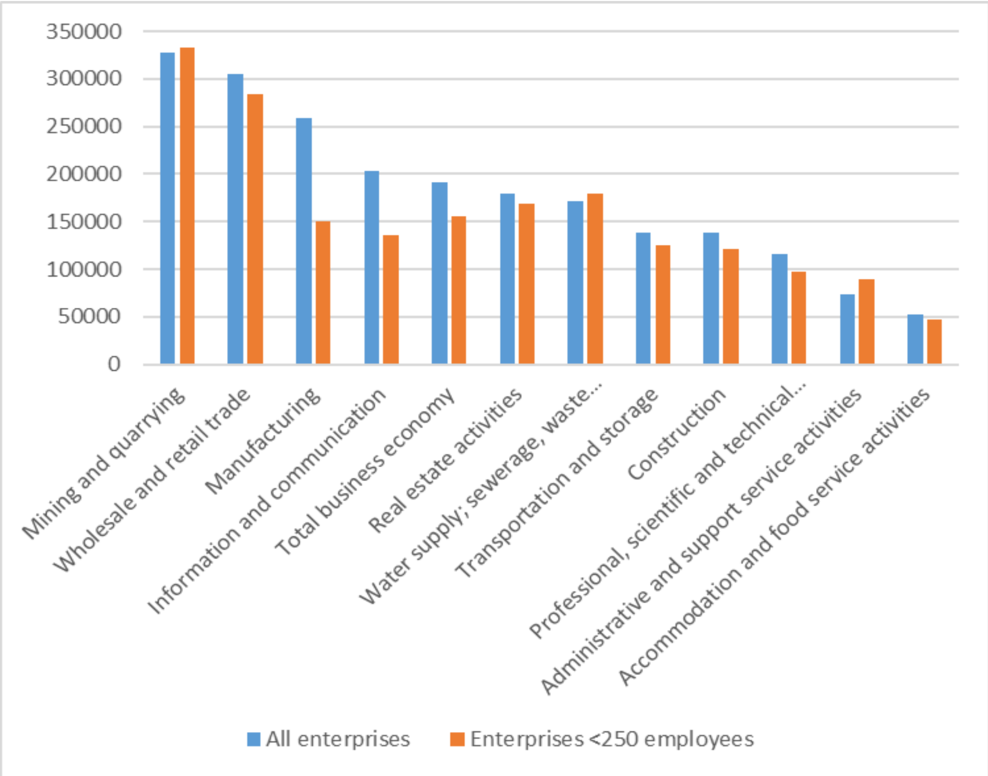
On top of these distinctions, national specificities, such as average wage and cost of living, may also impact national market structure.

The turnover per employee provides a measure to distinguish sectors by the two models described above. A labour-intensive sector will be characterised by a lower turnover per employee, the opposite for capital-intensive sectors. As shown in Graph 6, sectors such as Mining and quarrying; Wholesale and retail trade; Manufacturing; and Information and communication have average turnover per employee that is relatively higher than the

[275] 2018 data is missing for Austria and Cyprus and was estimated based on previous years. No data is available for Portugal.

rest of the sectors. Construction; Professional, scientific and technical activities; and Accommodation and food service activities, are on the lower end.

Graph 6 - Average turnover per employee in the EU of enterprises with less than 250 employees and all enterprises, 2018 in euro

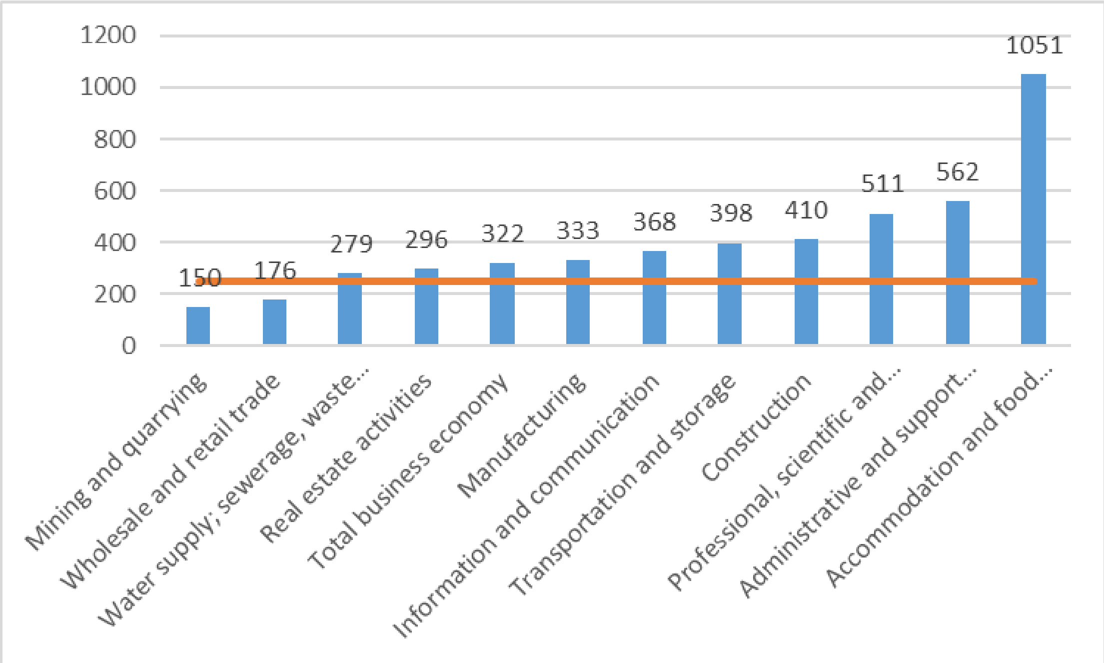


Data from 2018: ESTAT [sbs_sc_sca_r2] extracted on 10/05//2021

Concretely, this means that companies in labour-intensive sectors require a larger number of employees to reach the same turnover as companies in capital-intensive sectors. In relation to the EU SME Definition, it implies that enterprises in labour-intensive sectors will reach the staff headcount ceiling much faster than the financial ceilings.

This is shown in Graph 7. Enterprises in the accommodation sector may need up to 1,000 employees before reaching a turnover of EUR 50 million. This implies that a change to the financial ceilings would not substantially impact labour-intensive sectors.

Graph 7 - Estimated average number of employees required to reach the ceiling of 50ml EUR turnover



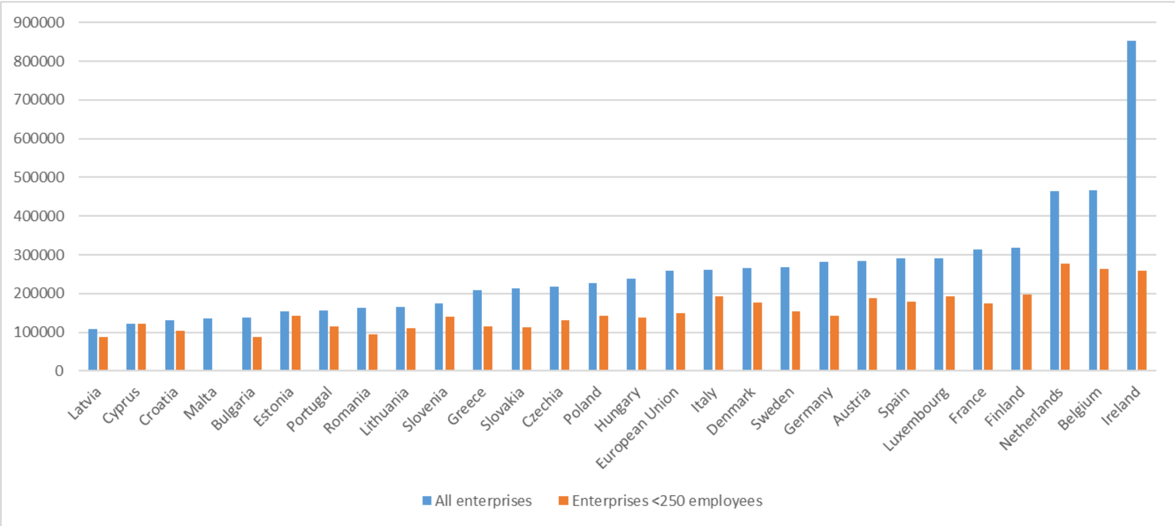
Data from 2018: ESTAT [sbs_sc_sca_r2] extracted on 10/05/2021

However, also national characteristics have an impact on enterprise performance and key indicators. The national state-of-the-art, technologies used, and cost of labour can all impact national business models. As a consequence, sectors that are capital intensive in one country can be labour intensive in another, and vice versa.

Graph 8 below shows that companies in the manufacturing sector have very different turnover per employee figures in the EU Member States[276].

[276] Figures aligned to the Purchasing Power of the EU 28 using the price level index (PLI) extracted from ESTAT, Purchasing power parities (PPPs), price level indices and real expenditures for ESA 2010 aggregates [prc_ppp_ind].

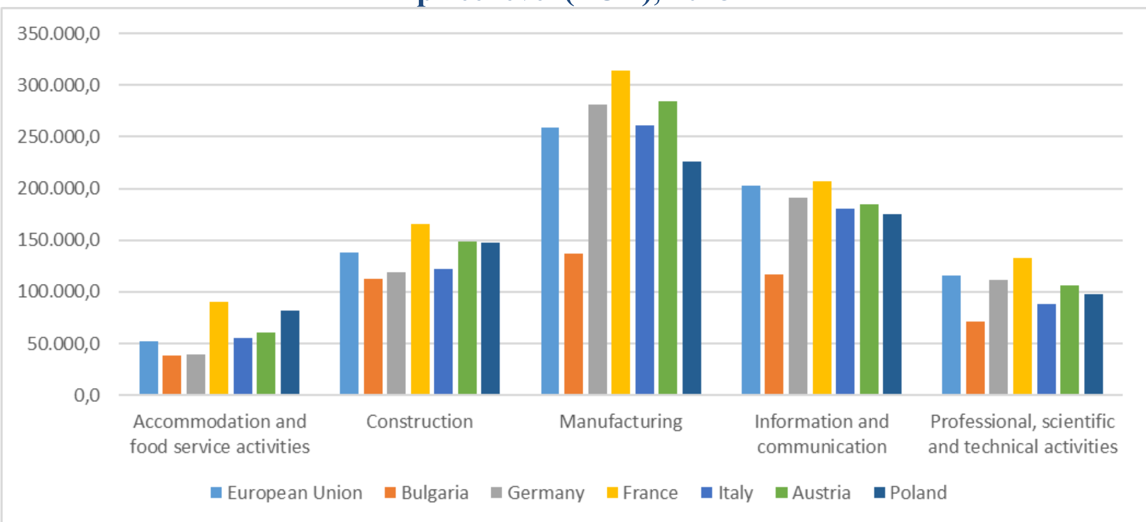
Graph 8 - Average turnover per employee in the manufacturing sector, per country at EU price level, 2018.



Data from 2018: ESTAT [sbs_sc_sca_r2] extracted on 10/05/2021, Purchasing power parities (PPPs), price level indices and real expenditures for ESA 2010 aggregates [prc_ppp_ind] extracted on 10/05/2021

Graph 9 - shows how the average turnover per employee is variable across selected sectors and Member States. While a sectoral trend is noticeable, in the same sector there are differences across Member States.

Graph 9 - Average turnover per employee in selected sectors and countries at EU28 price level (EUR), 2018



Data from 2018: ESTAT [sbs_sc_sca_r2] extracted on 10/05/2021, Purchasing power parities (PPPs), price level indices and real expenditures for ESA 2010 aggregates [prc_ppp_ind] extracted on 10/05/2021

ANNEX 5

Drivers

- Existence of a multiplicity of definitions - often based on local practice or individual sector
- Inconsistencies in SME treatment and potential distorted competition

Strategic objectives

- Ensure that available support and special measures to reduce administrative burden focus on enterprises that are most in need of it
- Create a level playing field for EU-based SMEs within the Internal Market with regard to their access to public support and finance

Specific objectives

- Limit the proliferation of SME definitions in use at EU and National level
- Lay down a common set of rules for identifying enterprises confronted with market failures and particular challenges due to their size and that are therefore allowed to receive public support
  - Improve the consistency and effectiveness of policies targeting SMEs, and limit the risk of distortion of competition
  - Increase support and focus towards micro-enterprises and start-ups
- Improve SME access to capital

Outputs

- EU SME Definition - including a model declaration
- EU and national policy and legislation using the SME definition to target genuine SMEs
- Policy and legislation focusing on micro-enterprises
- Clear and standardised set of rules, requirements and documents

Expected results

- Uniform application and interpretation of SME definition
- Legal certainty and business predictability for SMEs
- Increased support to micro-enterprises and start-ups

Expected impact

- Enhancement of Level Playing field for SMEs
- Improved conditions for creation and growth of EU SMEs

ANNEX 6

SME DEFINITIONS IN EU MEMBER STATES

Country	Legal basis for (main) national definition	National definition use	Categories	Criteria	Owner-ship	Grace period	Thresh. turnover micro (EUR)	Thresh. balance micro (EUR)	Thresh. turnover small (MEUR)	Thresh. balance small (MEUR)	Thresh. turnover medium (MEUR)	Thresh. balance medium (MEUR)
Austria	Commercial Code	Lighter/simplified requirements for SMEs e.g. annual reporting	Same as EU	Same as EU	No mention in the national legal act establishing SME definition	Same as EU	700,000	350,000	10	5	40	20
Belgium	Company Code		Micro, small, small-size group[277]	Same as EU	Micro/ small cannot be a subsidiary or parent co.	Same as EU	700,000	350,000	9	4.5	N/A	N/A
Bulgaria	Law on Small and Medium Enterprises	N/A	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU
Croatia	Accounting Law	Accounting and financial reporting	Same as EU	Same as EU	Same as EU	1 year	693,333	346,666	8	4	40	20

[277] Small-size group ceilings: 250 FTE, 34 MEUR turnover/17 MEUR balance sheet

Country	Legal basis for (main) national definition	National definition use	Categories	Criteria	Owner-ship	Grace period	Thresh. turnover micro (EUR)	Thresh. balance micro (EUR)	Thresh. turnover small (MEUR)	Thresh. balance small (MEUR)	Thresh. turnover medium (MEUR)	Thresh. balance medium (MEUR)
Cyprus	Ministerial Decision no60810 of 15.09.2004		Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU
Czech Republic	No national definition, uses EU definition	N/A	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU
Denmark	Financial Statements Act	Lighter/simplified requirements for SMEs e.g. annual reporting	Small and medium	Same as EU	No rules	Same as EU	725,709	362,855	12	6	42	21
Estonia	No national definition, uses EU definition	N/A	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU
Finland	No national definition, uses EU definition	N/A	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU
France	Décret n°2008-1354 article 3	Statistical and economic analysis	micro and small/medium [278]	Same as EU	No rules	No rules	Same as EU	Same as EU	N/A	N/A	Same as EU	Same as EU
Germany	Commercial Code	Lighter/simplified requirements for SMEs e.g. annual reporting	Small and medium	Same as EU	No rules	Same as EU	N/A	N/A	12	6	40	20
Greece	No national definition, uses EU definition	N/A	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU
Hungary	National Law on Small and Medium Enterprises and Support for their Development		Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU
Ireland	Companies Act	Lighter/simplified requirements for SMEs e.g.	Same as EU	Same as EU	No rules	Same as EU	700,000	350,000	12	6	40	20

[278] No distinction between small and medium

Country	Legal basis for (main) national definition	National definition use	Categories	Criteria	Owner-ship	Grace period	Thresh. turnover micro (EUR)	Thresh. balance micro (EUR)	Thresh. turnover small (MEUR)	Thresh. balance small (MEUR)	Thresh. turnover medium (MEUR)	Thresh. balance medium (MEUR)
		annual reporting										
Italy	Ministerial Decree, 18 April 2005 on alignment with EU Recommendation 2003/361		Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU
Latvia	Law on the Annual Financial Statements and Consolidated Financial Statements	Lighter/simplified requirements for SMEs e.g. annual reporting	Same as EU	Same as EU	No rules	Same as EU	700,000	350,000	8	4	40	20
Lithuania	Law of the Development of Small and Medium Business		Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU
Luxembourg	Regulation of 16 March 2005 on the Modification of the Definition of Micro, Small, and Medium-sized Enterprises		Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU
Malta	No national definition, use EU Definition	N/A	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU
Netherlands	No national definition, uses EU Definition	N/A	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU
Poland	Act on Freedom of Business Activity		Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU
Portugal	Decree-Law no. 372/2007		Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU

Country	Legal basis for (main) national definition	National definition use	Categories	Criteria	Owner-ship	Grace period	Thresh. turnover micro (EUR)	Thresh. balance micro (EUR)	Thresh. turnover small (MEUR)	Thresh. balance small (MEUR)	Thresh. turnover medium (MEUR)	Thresh. balance medium (MEUR)
Romania	Law 346 from 14th of July 2004		Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU
Slovakia	No national definition, uses EU Definition	N/A	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU
Slovenia	Companies Act		Same as EU	Same as EU	Same as EU	Same as EU	700,000	350,000	8	4	40	20
Spain	Spanish Central Bank Act		Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU	Same as EU
Sweden	Annual Reports Act	Accounting and financial reporting	Small	Same as EU	No rules	Same as EU	N/A	N/A	8	4	N/A	N/A

ANNEX 7

OVERVIEW OF SME DEFINITIONS IN EU KEY TRADE PLAYERS

	EU	USA	Japan	China	Russia
Sectoral approach	No	Yes	Yes	Yes	No
Criteria	Number of employees and turnover and / or balance sheet total	Number of employees or average annual receipts[279]	Number of employees and / or capital amount[280]	Number of employees and / or[281] operating income	Number of employees and sales
Used company size categories	Micro, small, medium	n/a[282]	Micro, "SMEs" (Small and Medium enterprises)	Micro, small, medium	Micro, small, medium
Ownership	An enterprise cannot be an SME if owned at more than 25 % by public bodies. Rules and levels of linkages between enterprises are established in order to assess the SME status	The company has to be independently owned and operated. Detailed rules on affiliation and ownership are applicable.	No rules on ownership in the legal acts defining SMEs	No rules on ownership in the legal acts defining SMEs	Share of public bodies in the registered capital is less than 25 %, share of foreign legal entities which are not SMEs is less than 49 %.

279 Number of employees over the past 12 months or the average annual receipts over the past three years. .
280 For the "small enterprises", only the number of employees is applied, while for the "SMEs" the number of employees or capital amount criteria are applied.
281 For some sectors, only one criteria is required.
282 In the US, no distinction of company size category is made.