

Interview questionnaire

The EESC sees the SME definition not as the answer to all SME problems, but as an instrument to provide for better access to support measures. Any revision of the definition should be based on an evaluation of the effects of the proposed changes on the EU's SME policies and programmes and especially on their contribution to growth and job creation. The update must take into consideration the key recommendation based on the results of the consultations and the decision of the EU Court of Justice¹. The EESC calls for the revision to include at least²: flexibility for SMEs to choose which two of the three criteria of Article 2³ to meet, instead of imposing the "staff headcount criterion"⁴ as the only major criterion; measures to update, whenever necessary, the thresholds of Article 2 of the Annex to the Recommendation, including by aligning them with the most up-to-date approach as set out in Directive 2013/34/EU⁵ and reassessing and revising the restrictions in Article 3⁶.

Introduction

1. Please describe your role and responsibilities in your organisation
Secretary General

SME Population Coverage

2. To what extent does the Definition cover enterprises whose size/characteristics is/are a disadvantage? **Correctly interpreted in the spirit of the Recommendation 2003/361/EC and thus applied in the same way for all SMEs, the Definition covers exclusively enterprises which face disadvantages. Yet, there are more of such enterprises suffering from a market failure which up to now have not been covered.**

How could this be improved?

- **Increase of the financial thresholds at least to account for inflation and productivity growth since the adoption in 2003**
- **Increase of the threshold of the staff headcount to up to 500**
- **Creation of the possibility to combine the three criteria in a more flexible way, i.e. it is sufficient if two of the three thresholds are met no matter if one of them is the one of the staff headcount or not**

What would be the consequences? *Please consider the following points:*

- a. *Current thresholds and criteria of definition*

Also those enterprises which suffer from a market failure would receive the support they are in need of.

¹ <http://eur-lex.europa.eu/legal-content/EN/AUTO/?uri=uriserv:OJ.C .2017.030.01.0056.01.ENG&toc=OJ:C:2017:030:FULL>,
<http://curia.europa.eu/juris/document/document.jsf?text=&docid=183329&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=687947>,
<http://curia.europa.eu/juris/document/document.jsf?http://curia.europa.eu/juris/document/document.jsf?text=&docid=183335&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=691887>.

² ECO/433.

³ Art. 2, Annex, 2003/361/EC.

⁴ Art. 4, Annex, 2003/361/EC.

⁵ Directive 2013/34/EU, 26 June 2013.

⁶ Art. 3, Annex, 2003/361/EC.

b. *Sector dimension*

There should not be any differentiation according to sectors; it's not the sector which is decisive but the size of the company. In addition the economic development might change for a sector as such, might be different for a sector from country to country and might also cause challenges in defining the sector.

c. *Specific sub-categories of companies*

We don't think that it is appropriate to create sub-categories. To ensure legal certainty and a unified application is key which is easier to ensure if the definition remains as simple as possible. The more detailed the definition becomes, the harder it will be to ensure consistency in application and accordingly fairness in each jurisdiction

3. The 2-year rule (Article 4.2) states that an enterprise loses its SME status if the ceilings have been exceeded during two consecutive accounting periods. Is this an appropriate rule? *Please consider the following points: risk of lock-in effect, support to start-ups/scale-ups*

We fully support this rule stating in full “Where, at the date of closure of the accounts, an enterprise finds that, on an annual basis, it has exceeded or fallen below the headcount or financial ceilings stated in Article 2, 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 accounting periods” and think that there is even a strong case to extend this duration so that the risk of such a lock-in effect is entirely excluded. Especially start-ups and scale-ups might be confronted with very uneven developments of their business cycles over more than two years so that an extension would decisively support them

Interpretation and use

4. What do you think is/are the main issue(s) with the EU SME Definition and its application? How could such issues be solved?

- **The Definition should be broadened so that it could cover all enterprises in need of support to make up for existing market failures**
- **It is important to ensure a consistency in application and accordingly fairness in each jurisdiction; thus, the definition should lay down clear and unambiguous eligibility criteria**
- **The Definition should be in accordance with market developments; accordingly, the financial thresholds should be increased at least to account for inflation and productivity growth since the adoption in 2003, the threshold of the headcount should be increased; the combination of those three criteria should be more flexible**

5. To what extent is the EU definition clear and easy to use and to interpret for the different stakeholders involved (your organisation, SMEs, EU or national policymakers)?

From the perspective of AECM's 42 members, the SME definition is utilised as a first step in defining the eligibility criteria for potential borrowers, either directly or through their on-lending partners. In doing so, our members have no difficulties in applying the definition as such, meaning for them the definition is clear. Yet, to receive the relevant information either directly from the entrepreneur or via a banking partner to determine whether the enterprise is a SME, is not always easy and involves some constraints.

6. To what extent is the Definition uniformly interpreted at EU, national and/or regional level?
We have no indication that the Definition is not uniformly interpreted. Yet, we would like to underline that it is of utmost importance to ensure consistency in application and fairness in each jurisdiction. Therefore, legal certainty is key also to ensure that only those companies are covered which face specific challenges and are indeed in need of a preferential treatment.
7. [if an alternative national SME Definition exists] Why was there a need for a different SME definition at national level?
As an example might serve the situation in Germany. The national promotional institution KfW, which is the second largest in the world, uses a definition in one of its promotional products according to which a company with up to 500 employees and up to 50 million EUR annual turnover is a SME. This means that the very widely applied definition in Germany is broader than the European one. There is a strong demand for this promotional product since the nationally used definition identifies further companies which are confronted with market failures and which are not covered by the European one.

To illustrate further the need for increasing the threshold of the staff headcount:

- The ongoing globalisation leads to an increase of joint ventures and the creation of subsidiaries with different personnel structures in the EU or in third countries; nonetheless, these companies which then often employ more than 250 employees remain in need of particular support
- Industrial concerns outsource more and more production services to suppliers / to subcontractors who accordingly have to increase the number of staff; nevertheless, also they remain effected by existing market failures;
- Those sectors, like hotel and catering, which are characterized by high fluctuation and part time jobs are not constantly having up to 250 staff members and would be treated in a steadier way if they were also covered when having for a few years more than 250 but still less than 500 employees.

To what extent do the differences between the EU and national definitions pose a problem for SMEs and/or public authorities

Our members see a difference, for instance, in the application of state aid regulation. If state aid is involved when providing guarantees, it is of an advantage to apply the de minimis regulation, meaning that the EU SME Definition does not need to be applied, than the General Block Exemption Regulation which refers to the EU SME Definition.

Results of the definition

8. What have been the main achievements of the EU SME Definition? *Please consider the following: contributing to streamlining and focus of support programmes towards SMEs; providing equal treatment for SMEs across the EU (for EU policies and funding)?*
Since the current version covers exclusively those enterprises which are confronted with a market failure especially in the area of access to finance, the EU SME Definition has proven its worth. Given that there used to be and still exist several different EU Definitions we are very much supporting the development that the one of the Recommendation 2003/361/EC has been well established and should in fact become the only one in force at European level. Thanks to this development, equal treatment of SMEs is more easily realised. Support programmes towards SMEs like, for instance, COSME promote companies in the same way and the same for the application of the SME supporting factor of the equity capital legislation.

9. To what extent do you feel the Definition is integrated into the EU, national and/or regional policies? Is there a need for more integration, or should space be left for Member States to adapt the Definition to national market conditions?

As mentioned, from our point of view the EU SME Definition of the Recommendation 2003/361/EC has been well established and should be the only one at European level. Whether there should be more integration of remaining space for Member States depends on the EU SME Definition as such. We see a need to increase the thresholds of both, the financial ones as well as the one of the headcount, to cover all enterprises which need support to make up with existing market failures. Thus, the existing funding for eligible companies in Member States, for instance in Germany, needs to be sufficient to meet the level of demand. Overall funding divided amongst Member States could be narrowed. As long as sufficient provision is in place to mitigate this risk then there would be limited concern with a widening in the parameters of the definition.

10. To what extent have there been unintended/unexpected effects?

Not all the enterprises which need a preferential treatment have been covered by the EU SME Definition. For instance, companies in labour intensive sectors like the manufacturing of metal products are characterized by low turn overs but high number of employees.

Costs linked to the application of the definition

11. What are the key costs and administrative burdens linked to the application of the Definition for all stakeholders involved?

Administrative burdens arise in gathering the information needed to determine if an enterprise is a SME (= on the complete structure of a group and on the three data to be analysed). This is not always easy and implies constraints for both, for our members but also for their partners which are in direct contact with the businesses. When using programmes dedicated to SMEs like, for instance, COSME, the importance of providing information in the case of audits requested by the European services constitutes also additional resource requirements / added burden.

Are these costs affordable and proportionate to the benefits derived from having an EU SME definition/status?

The costs are still manageable, but it goes without saying that any reduction due to a simplification of the EU SME Definition is more than welcome.

12. To what extent and how could the Definition be improved or simplified to reduce those costs or administrative burden? Would the Definition then still single out the genuine SMEs?

Closing question

13. What other changes would you suggest to improve the application of the Definition? What would be the main consequences of these changes to the Definition?

- **Increase of the financial thresholds to account at least for economic factors and inflation since it was first adopted in 2003**
- **Increase of the threshold of the staff headcount to up to 500**
- **Two of the above mentioned three criteria should be fulfilled no matter which (= more flexible combination of those three conditions)**
- **The 2-year rule should at least remain unchanged or ideally be extended to a longer period**

- The Definition should be as simple and as clear as possible; e.g. currently notions like public investors holding more than 25% and less than 50% is not always easy to determine
- Verification of the “linked enterprise” without verifying any personal linkage; this would be similar to the verification performed prior to granting the de minimis aid, where the criteria of a “single enterprise” is verified

Data needs

14. Could you share with us examples/data of:

- a. Questions received concerning the interpretation of the SME definition
- b. Relevant Court case references

15. Do you have data on audits/ex-post evaluations performed on SME status assessments conducted at EU or national level?

17 members of AECM are financial intermediaries of the COSME Loan Guarantee Facility; the audits undertaken by the European Commission etc. cover also the question of whether the EU SME Definition was correctly applied

16. We identified some data sources [*please mention data sources from country overview*], are there other databases that collect data about SMEs in your country? What type of information are available (e.g. binary info on SME status (SME yes/no, N. of employees, Turnover, shareholders, etc.)

17. Would you have data on SMEs accessing public procurement in your country?

18. Would you have data on SMEs accessing public funding in your country?