

Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises

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*Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 70/2001. (See end of Document for details)*

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## [<sup>F1</sup>ANNEX I

Definition of small and medium-sized enterprises  
(Extract from Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of small and medium sized enterprises, [OJ L 124, 20.5.2003, p. 36](#))

### Textual Amendments

**F1** Substituted by [Commission Regulation \(EC\) No 364/2004 of 25 February 2004 amending Regulation \(EC\) No 70/2001 as regards the extension of its scope to include aid for research and development.](#)

## DEFINITION OF MICRO, SMALL AND MEDIUM-SIZED ENTERPRISES ADOPTED BY THE COMMISSION

### *Article 1*

#### **Enterprise**

An enterprise is considered to be any entity engaged in an economic activity, irrespective of its legal form. This includes, in particular, self-employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity.

### *Article 2*

#### **Staff headcount and financial ceilings determining enterprise categories**

1 The category of micro, small and medium-sized enterprises (SMEs) is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding 50 million euro, and/or an annual balance sheet total not exceeding EUR 43 million.

2 Within the SME category, a small enterprise is defined as an enterprise which employ fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million.

3 Within the SME category, a micro-enterprise is defined as an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million.

### *Article 3*

#### **Types of enterprise taken into consideration in calculating staff numbers and financial amounts**

1 An 'autonomous enterprise' is any enterprise which is not classified as a partner enterprise within the meaning of paragraph 2 or as a linked enterprise within the meaning of paragraph 3.

2 'Partner enterprises' are all enterprises which are not classified as linked enterprises within the meaning of paragraph 3 and between which there is the following relationship: an enterprise (upstream enterprise) holds, either solely or jointly with one or more linked

enterprises within the meaning of paragraph 3, 25 % or more of the capital or voting rights of another enterprise (downstream enterprise).

3 'Linked enterprises' are enterprises which have any of the following relationships with each other:

4 Except in the cases set out in paragraph 2, second subparagraph an enterprise cannot be considered an SME if 25 % or more of the capital or voting rights are directly or indirectly controlled, jointly or individually, by one or more public bodies.

5 Enterprises may make a declaration of status as an autonomous enterprise, partner enterprise or linked enterprise, including the data regarding the ceilings set out in Article 2. The declaration may be made even if the capital is spread in such a way that it is not possible to determine exactly by whom it is held, in which case the enterprise may declare in good faith that it can legitimately presume that it is not owned as to 25 % or more by one enterprise or jointly by enterprises linked to one another. Such declarations are made without prejudice to the checks and investigations provided for by national or Community rules.

#### Article 4

##### **Data used for the staff headcount and the financial amounts and reference period**

1 The data to apply to the headcount of staff and the financial amounts are those relating to the latest approved accounting period and calculated on an annual basis. They are taken into account from the date of closure of the accounts. The amount selected for the turnover is calculated excluding value added tax (VAT) and other indirect taxes.

2 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 micro-enterprise unless those ceilings are exceeded over two consecutive accounting periods.

3 In the case of newly-established enterprises whose accounts have not yet been approved, the data to apply is to be derived from a *bona fide* estimate made in the course of the financial year.

#### Article 5

##### **Staff headcount**

The headcount corresponds to the number of annual work units (AWU), i.e. the number of persons who worked full-time 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, the work of those who have worked part-time, regardless of duration, and the work of seasonal workers are counted as fractions of AWU. The staff consists of:

- (a) employees;
- (b) persons working for the enterprise being subordinated to it and deemed to be employees under national law;
- (c) owner-managers;
- (d) partners engaging in a regular activity in the enterprise and benefiting from financial advantages from the enterprise.

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Apprentices or students engaged in vocational training with an apprenticeship or vocational training contract are not included as staff. The duration of maternity or parental leaves is not counted.

### *Article 6*

#### **Establishing the data of an enterprise**

1 In the case of an autonomous enterprise, the data, including the number of staff, are determined exclusively on the basis of the accounts of that enterprise.

2 The data, including the headcount, of an enterprise having partner enterprises or linked enterprises are determined on the basis of the accounts and other data of the enterprise or, where they exist, the consolidated accounts of the enterprise, or the consolidated accounts in which the enterprise is included through consolidation.

3 For the application of paragraph 2, the data of the partner enterprises of the enterprise in question are derived from their accounts and their other data, consolidated if they exist. To these are added 100 % of the data of enterprises which are linked to these partner enterprises, unless their accounts data are already included through consolidation.

4 Where in the consolidated accounts no staff data appear for a given enterprise, staff figures are calculated by aggregating proportionally the data from its partner enterprises and by adding the data from the enterprises to which the enterprise in question is linked.]

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## ANNEX II

**Form of summary information to be provided whenever an aid scheme exempted by this Regulation is implemented and whenever an individual aid exempted by this Regulation is granted outside any aid scheme**

Summary information on State aid granted in conformity with Commission Regulation (EC) No 70/2001	
Summary information to be filled in	Explanatory remarks
Member state	
Region	Indicate the name of the region if the aid is granted by a subcentral authority
Title of aid scheme or name of company receiving an individual aid	Indicate the name of the aid scheme or in case of individual aid, the name of the beneficiary. In the latter case, no subsequent annual report is necessary!
Legal basis	Indicate the precise national legal reference for the aid scheme or for the individual aid
Annual expenditure planned under the scheme or overall amount of individual aid granted to the company	Amounts are to be given in euro or, if applicable, national currency.  In case of an aid scheme: indicate the annual overall amount of the budget appropriation(s) or the estimated tax loss per year for all aid instruments contained in the scheme.  In case of an individual aid award: indicate the overall aid amount/tax loss. If appropriate, indicate also for how many years the aid will be paid in instalments or over how many years tax losses will be incurred.  For guarantees in both cases, indicate the (maximum) amount of loans guaranteed
Maximum aid intensity	Indicate the maximum aid intensity or the maximum aid amount per eligible item
Date of implementation	Indicate the date from which aid may be granted under the scheme or when the individual aid is granted
Duration of scheme or individual aid award	Indicate the date (year and month) until which aid may be granted under the scheme or in case of an individual aid and if appropriate the expected date (year and month) of the last instalment to be paid
Objective of aid	It is understood that the primary objective is aid to SME. This field gives the opportunity to indicate further (secondary) objectives pursued (e.g. small enterprises only or SME; investment aid/consultancy)

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Legal basis	Indicate the precise national legal reference for the aid scheme or for the individual aid
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### ANNEX III

#### Form of the periodic report to be provided to the Commission Annual reporting format on aid schemes exempted under a group exemption regulation adopted pursuant to Article 1 of Council Regulation (EC) No 994/98

Member States are required to use the format below for their reporting obligations to the Commission under group exemption regulations adopted on the basis of Council Regulation (EC) No 994/98.

The reports should also be provided in computerised form.

Information required for all aid schemes exempted under group exemption regulations adopted pursuant to Article 1 of Council Regulation (EC) No 994/98

1. Title of aid scheme

.....

2. Commission exemption regulation applicable

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3. Expenditure

Separate figures have to be provided for each aid instrument within a scheme or individual aid (e.g. grant, soft loans, etc.) The figures have to be expressed in euro or, if applicable, national currency. In the case of tax expenditure, annual tax losses have to be reported. If precise figures are not available, such losses may be estimated.

These expenditure figures should be provided on the following basis.

For the year under review indicate separately for each aid instrument within the scheme (e.g. grant, soft loan, guarantee, etc.):

- 3.1. amounts committed, (estimated) tax losses or other revenue forgone, data on guarantees, etc. for new assisted projects. In the case of guarantee schemes, the total amount of new guarantees handed out should be provided;
- 3.2. actual payments, (estimated) tax losses or other revenue forgone, data on guarantees, etc. for new and current projects. In the case of guarantee schemes, the following should be provided: total amount of outstanding guarantees, premium income, recoveries, indemnities paid out, operating result of the scheme under the year under review;
- 3.3. number of new assisted projects;
- 3.4. estimated overall number of jobs created or maintained by new projects (if appropriate);
- 3.5. estimated overall amount of investment aided by new projects;
- 3.6. Regional breakdown of amounts under point 3.1 either by regions defined at NUTS<sup>(1)</sup> level 2 or below or by Article 87(3)(a) regions, Article 87(3)(c) regions and non-assisted regions;
- 3.7. Sectorial breakdown of amounts under point 3.1. by beneficiaries' sectors of activity (if more than one sector is covered, indicate the share of each):
  - coalmining
  - manufacturing
  - of which:

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- steel
- shipbuilding
- synthetic fibres
- motor vehicles
- other manufacturing (please specify)

services

of which:

- transport services
- financial services
- other services (please specify)

other sectors (please specify)

4. Other information and remarks.

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- (1) NUTS is the nomenclature of territorial units for statistical purposes in the Community.

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