# DECLARATION OF MEETING SME CRITERIA

In connection with the application for funding under the European Funds for the Modern Economy 2021-2027 program *(action number)* ………………………………………………….

........................................................................................................................................................................   
*(application number for project funding)*

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*(full name of the Applicant[[1]](#endnote-1) according to the registration document) hereby declares that it is***[[2]](#endnote-2)***:*

**micro-enterprise □**

**small enterprise □**

**medium enterprise** **□**

meeting the conditions specified in Annex 1 to Commission Regulation (EU) No. 651/2014 of June 17, 2014, declaring certain types of aid compatible with the internal market in accordance with Articles 107 and 108 of the Treaty. (OJ EU L 187 of June 26, 2014).

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **1.** **Applicant:** (full name according to the registration document) | | | | | | |
|  | | | | | | |
| **2. Date of commencement of the applicant's activity** (according to the registration document: month/year) | |  | | | | |
| **3. Historical Data Regarding Entrepreneur Status** | | | | | | |
| **Applicant status** | **During the reference period for the second year preceding the last reference period**  (since dd.mm.yy  to dd.mm.yy) | | **During the reference period for the first year preceding the last reference period**  (since dd.mm.yy  to dd.mm.yy) | | **In the most recent reference period[[3]](#endnote-3)**  (since dd.mm.yy  to dd.mm.yy) | |
| **Micro-enterprise** | □ | | □ | | □ | |
| **Small enterprise** | □ | | □ | | □ | |
| **Medium enterprise** | □ | | □ | | □ | |
| **Entrepreneur other than an SME** | □ | | □ | | □ | |
| **Status change – description** *(if applicable)[[4]](#endnote-4):* | | | | | | |
|  | | | | | | |
| **4. Type of enterprise:** | | | | | | |
| **4a. Independent enterprise** within the meaning of Article 3 of Annex I to Commission Regulation (EU) 651/2014**[[5]](#endnote-5)**  NOTE: If the Applicant in the Project is an independent enterprise, in point 4a, select the "yes" option and complete Annex 1 to the Statement. In points 4b and 4c, select the "no" option. | | | | □ Yes | | □ No |
| **4b. Partnership enterprise** within the meaning of Article 3 of Annex I to Commission Regulation (EU) No. 651/2014[[6]](#endnote-6).  NOTE:  If the Applicant does not fit the definition of an independent enterprise and  is in a partnership relationship with other enterprises, in point 4a, select  the "no" option, and in point 4b, select the "yes" option. Then complete  Annex 2 to the Statement. | | | | □ Yes | | □ No |
| **4c. Associated enterprise** in the sense of Article 3 of Annex I to Commission Regulation (EU) No. 651/2014. [[7]](#endnote-7)  NOTE: If the Applicant does not fall within the definition of an independent enterprise and is in a relationship with another/other enterprises in terms of associated enterprises, in point 4a they select the option "no," while in point 4c they mark the option "yes." They then fill out Annex 3 to the Declaration. | | | | □ Yes | | □ No |
| **5.Applicant data to determine SME Status (if the applicant has affiliation and/or partnership relationships, cumulative data should be provided)** | | | | | | |
| **Cumulative data to determine the SME category of the applicant** | **During the reference period for the second year preceding the last reference period** | | **During the reference period for the first year preceding the last reference period** | | **In the most recent reference period [[8]](#endnote-8)** | |
| **Reference period to which the data relate** |  | |  | |  | |
| **Employment size[[9]](#endnote-9)** |  | |  | |  | |
| **Net sales revenue[[10]](#endnote-10)**  *(in thousands of EUR)* |  | |  | |  | |
| **Total assets of the balance sheet**[[11]](#endnote-11)  *(in thousands of EUR)* |  | |  | |  | |

**Date and signature:**

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**Note:**  
**Annex 1, or 2 and/or 3 must be attached to the Statement, depending on whether the enterprise is independent, in a partnership relationship with another entity/entities (partnership enterprise), or affiliated with another entity/entities. If the enterprise has both affiliated and partnership enterprises, both Annex 2 and Annex 3 should be included in the application.**

**ANNEX 1 TO THE STATEMENT OF COMPLIANCE WITH SME CRITERIA  
INFORMATION PROVIDED BY AN INDEPENDENT ENTERPRISE**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 1. **Does any of the following relationships exist between the Applicant’s enterprise and another entity based on an agreement, arrangement, or understanding with third parties?** | | | | |
| **1a.** Holding shares/stakes in another entity, or another entity holding shares/stakes in the Applicant’s enterprise? | | | □ Yes | □ No |
| **Description\*:** |  | | | |
| **1b.** Exercising voting rights as a shareholder/partner/member in another entity, or another entity exercising voting rights as a shareholder/partner/member in the Applicant’s enterprise? | | | □ Yes | □ No |
| **Description\*:** |  | | | |
| **1c.** If **"yes"** was selected in 1a or 1b, does the Applicant's enterprise hold 25% or more of shares/stakes or voting rights in another enterprise? | | | □ Yes | □ No |
| **Description\*:** |  | | | |
| **1d.** If **"yes"** was selected in 1a or 1b, does the Applicant’s enterprise hold **25% or more** of shares/stakes or voting rights in another enterprise? | | | □ Yes | □ No |
| **Description\*:** |  | | | |
| **1e.** If **"yes"** was selected in 1d, are these entities:   * Public investment corporations, venture capital companies, or business angels, i.e., individuals or groups of individuals conducting regular risk investment activities who invest in unlisted companies, provided that the total business angel investment in the same enterprise does not exceed 1,250,000 EUR; * Universities (higher education institutions) or non-profit research centers; * Institutional investors, including regional development funds; * Independent local authorities with an annual budget below 10 million EUR and fewer than 5,000 inhabitants.   *—* and these entities hold between 25% and 50% of the capital or voting rights.  *(Only under this condition is data from these entities excluded in determining the Applicant’s enterprise status.)* | | | □ Yes | □ No |
| **Description\*:** | |  | | |
| **1f.** If the enterprises or entities mentioned in 1e hold more than 50%, are they directly or indirectly involved in the management of the Applicant’s enterprise? | | | □ Yes | □ No |
| **Description\*:** | | |  |  |
| **1g.** The ability to appoint or dismiss members of the administrative, management, or supervisory body of another entity, or by another entity in relation to the Applicant’s enterprise? | | | □ Yes | □ No |
| **Description\*:** |  | | | |
| **1h.** Dominant influence over another entity, arising from, for example, an agreement with that entity or according to the provisions of its articles of association or partnership agreement, or the dominant influence of another entity over the Applicant’s enterprise, arising from, for example, an agreement or in accordance with the provisions of its articles of association or partnership agreement, etc.? | | | □ Yes | □ No |
| **Description\*:** |  | | | |
| **1i.** Remaining in a relationship referred to in 1a, 1b, 1g, 1h, through an individual or a group of individuals acting together if they operate or part of their business in the same relevant market or related markets.[[12]](#endnote-12)? | | | □ Yes | □ No |
| **Description\*:** |  | | | |
| 1. Does the enterprise prepare consolidated financial statements or is it included in the financial statements of an enterprise that prepares consolidated statements?[[13]](#endnote-13) | | | □ Yes | □ No |

**Date and signature:**

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**\* In the description field, provide a detailed explanation of how the relevant condition is met. Specifically, indicate the enterprises with which the applicant has these relationships, along with the percentage share in capital or voting rights. Describe any changes that have occurred in the ownership structure of the enterprise, specifying the date of such changes, the legal basis, and their nature.**

**ANNEX 2 TO THE DECLARATION OF MEETING SME CRITERIA  
INFORMATION PROVIDED BY A PARTNER ENTERPRISE**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1. **Does any of the following relationships exist between the Applicant's enterprise and another entity based on an agreement, arrangement, or understanding with third parties?** | | | | | |
| **1a.** Holding shares/stakes in another entity, or another entity holding shares/stakes in the Applicant's enterprise? | | | □ Yes | | □ No |
| **Description\*:** |  | | | | |
| **1b.** Exercising voting rights as a shareholder/member in another entity, or another entity exercising voting rights as a shareholder/member in the Applicant's enterprise? | | | □ Yes | | □ No |
| **Description\*:** |  | | | | |
| **1c.**  If "**yes**" was selected in 1a or 1b, does the Applicant's enterprise hold 25% or more of shares/stakes or voting rights in another enterprise? | | | □ Yes | | □ No |
| **Description\*:** |  | | | | |
| **1d.** If **"yes"** was selected in 1a or 1b, do other enterprises or public entities, either independently or together with one or more linked enterprises or public entities, hold **25% or more** of shares/stakes or voting rights in the Applicant's enterprise? | | | □ Yes | | □ No |
| **Description\*:** |  | | | | |
| **1e.** The ability to appoint or dismiss members of the administrative, management, or supervisory body of another entity, or for another entity to have this ability in relation to the Applicant's enterprise? | | | □ Yes | | □ No |
| **Description\*:** |  | | | | |
| **1f.** Dominant influence over another entity, resulting from, for example, an agreement with that entity or according to the provisions of its statute or company agreement, or the influence of another entity over the Applicant's enterprise, resulting from, for example, an agreement or according to the provisions of its statute or company agreement, etc.? | | | □ Yes | | □ No |
| **Description\*:** |  | | | | |
| **1h.** Remaining in a relationship referred to in 1a, 1b, 1e, 1f, through a natural person or a group of natural persons acting jointly if they conduct business or part of their business in the same relevant market or related markets? | | | □ Yes | | □ No |
| **Description\*:** |  | | | | |
| 1. **Data on partner entities**   (complete data of enterprises along with the data of the enterprises connected with them) | | | | | |
| **Name and registered office of the enterprise/enterprises in partnership with the Applicant** | | **Percentage share of the Applicant in the capital or voting rights** of the partnering enterprise  (if applicable)  (to calculate data on partnering enterprises proportionally, use the higher value between these two shares) | | **Percentage share of the partnering enterprise in the capital or voting rights of the Applicant**  *(if applicable)*  (to calculate data on partnering enterprises proportionally, use the higher value between these two shares) | |
| 1) | |  | |  | |
| 2) | |  | |  | |
| 3) | |  | |  | |
| … | |  | |  | |
| **3.** Does the enterprise prepare consolidated financial statements or is it included in the financial statements of an enterprise that prepares consolidated statements?[[14]](#endnote-14) | | □ Yes | | □ No | |

**\* In the description field, please provide a detailed explanation of how the specified criterion is met. In particular, indicate the enterprises with which the applicant has the relevant relationships and the percentage share in the capital or voting rights. Describe any changes in the ownership structure of the enterprise, including the date of such changes, the legal basis, and their nature.**

**4. Data used to determine the SME category of the applicant remaining in a partnership relationship.**

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Data used to determine the SME category of the entrepreneur.** | **During the reference period for the second year preceding the last reference period**  **(since dd.mm.yy to dd.mm.yy)** | | | **During the reference period for the first year preceding the last reference period**  **(since dd.mm.yy to dd.mm.yy)** | | | **In the most recent reference period [[15]](#endnote-15)**  **(od dd.mm.rr do dd.mm.rr)** | | |
| **Size of employment[[16]](#endnote-16)** | **Net sales revenue[[17]](#endnote-17)**  *(in thousand EUR)* | **Total balance sheet assets[[18]](#endnote-18)**  *(in thousand EUR)* | **Size of employment** | **Net sales revenue**  *(in thousand EUR)* | **Total balance sheet assets**  *(in thousand EUR)* | **Size of employment** | **Net sales revenue**  *(in thousand EUR)* | **Total balance sheet assets**  *(in thousand EUR)* |
| **Applicant's Data** |  |  |  |  |  |  |  |  |  |
| **Data of Partner Enterprise No... (complete data of the enterprise along with data of enterprises associated with it)** |  |  |  |  |  |  |  |  |  |
| **Information about entities associated with Partner Enterprise No... *(name, REGON, description of the relationship)*** |  | | | | | | | | |
| **Data of Partner Enterprise No... (complete data of the enterprise along with information about the enterprises associated with it)** |  |  |  |  |  |  |  |  |  |
| **Information about the entities associated with Partner Enterprise No... *(name, REGON, description of the type of association)*** |  | | | | | | | | |
| **Data on all partner enterprises cumulatively aggregated**  **proportionally[[19]](#endnote-19)** |  |  |  |  |  |  |  |  |  |

**Date and signature:**

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***ANNEX 3* TO THE DECLARATION OF MEETING THE SME CRITERIA**

***- INFORMATION PROVIDED BY A CONNECTED ENTERPRISE***

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 1. **Does any of the following relationships exist between the Applicant's enterprise and another entity based on an agreement, understanding, or arrangement with third parties, including the following entities:**  * **Public investment corporations, venture capital companies, or business angels, i.e., individuals or groups conducting regular high-risk investment activities in unlisted companies, provided that the total amount of the business angels' investment in the same enterprise does not exceed €1,250,000;** * **Universities (higher education institutions) or non-profit research centers;** * **Institutional investors, including regional development funds;** * **Independent local authorities with an annual budget of less than €10 million and a population of fewer than 5,000;** * **An individual or group of individuals if they conduct their business or part of their business in the same or related markets.** | | | | | |
| **1a.** Does the Applicant's enterprise hold a majority of voting rights in another enterprise as a shareholder/member, or does another enterprise hold a majority of voting rights as a shareholder/member in the Applicant's enterprise? | | | □ Yes | | □ No |
| **Description\*:** |  | | | | |
| **1 b.** Does the Applicant's enterprise have the right to appoint or dismiss the majority of members of the management or supervisory board of another enterprise, **or** does another enterprise have the right to appoint or dismiss the majority of members of the management or supervisory board in the Applicant's enterprise? | | | □ Yes | | □ No |
| **Description\*:** |  | | | | |
| **1 c.** Does the Applicant's enterprise have the right to exert a **dominant** influence over another enterprise according to an agreement with that enterprise or according to the provisions in its founding document, articles of association, or partnership agreement, or does another enterprise have the right to exert a **dominant** influence over the Applicant's enterprise according to an agreement or provisions in its founding document, articles of association, or partnership agreement? | | | □ Yes | | □ No |
| **Description\*:** |  | | | | |
| **1 d.** Does the Applicant's enterprise, as a shareholder or member of another enterprise, independently control the majority of voting rights of shareholders or members in that enterprise according to an agreement with other shareholders or members of that enterprise, or does another enterprise that is a shareholder or member of the Applicant's enterprise independently control the majority of voting rights of shareholders or members in that enterprise according to an agreement with other shareholders or members? | | | □ Yes | | □ No |
| **Description\*:** |  | | | | |
| **1 e. Is there a relationship, as referred to in points 1a, 1b, 1c, and 1d, established through an individual or a group of individuals acting together, if they** operate or conduct part of their activities in the same relevant market or related markets? | | | □ Yes | | □ No |
| **Description\*:** |  | | | | |
| **1f.** If the enterprises or entities mentioned in point 1 hold more than 50%, do they engage directly or indirectly in the management of the applicant's enterprise? | | | □ Yes | | □ No |
| **Description\*:** |  | | | | |
| 1. **Data concerning entities related to the Applicant**   (complete details of enterprises along with information about their associated entities). | | | | | |
| **Name and registered office of the enterprise/enterprises related to the Applicant in a relationship of associated enterprises.** | | **Percentage share of the Applicant**  in the capital or voting rights of the associated enterprise  *(if applicable).* | | **Percentage share of the associated enterprise** in the capital or voting rights of the Applicant  *(if applicable).* | |
| 1) | |  | |  | |
| 2) | |  | |  | |
| 3) | |  | |  | |
| … | |  | |  | |
| **3a.** Is the Applicant's enterprise a member of a capital group, a vertically integrated chain, or another group preparing consolidated financial statements?[[20]](#endnote-20) | | □ Yes | | □ No | |
| **3b.** Does the consolidated financial statement mentioned in point 3a also include the data of the Applicant's enterprise?? | | □ Yes | | □ No | |
| **3c.** Does the Applicant's enterprise or at least one of the enterprises associated with it **prepare** consolidated financial statements **or is it included** in the consolidated financial statements of another associated enterprise?? | | □ Yes | | □ No | |

**4. Data used to determine the SME category of the Applicant, which is an associated enterprise.**

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Data used to determine the SME category of the entrepreneur.** | **During the reference period for the second year preceding the last reference period**  **(since dd.mm.yy to dd.mm.yy)** | | | **During the reference period for the first year preceding the last reference period**  **(since dd.mm.yy to dd.mm.yy)** | | | **In the most recent reference period [[21]](#endnote-21)**  **(since dd.mm.yy to dd.mm.yy)** | | |
| **Size of employment [[22]](#endnote-22)** | **Net sales revenue[[23]](#endnote-23)**  *(in thousand EUR)* | **Total balance sheet assets [[24]](#endnote-24)**  *(in thousand EUR)* | **Size of employment** | **Net sales revenue**  *(in thousand EUR)* | **Total balance sheet assets**  *(in thousand EUR)* | **Size of employment** | **Net sales revenue**  *(in thousand EUR)* | **Total balance sheet assets**  *(in thousand EUR)* |
| **Applicant's Data** |  |  |  |  |  |  |  |  |  |
| **Data of Partner Enterprise No... (complete data of the enterprise along with data of enterprises associated with it)[[25]](#endnote-25)** |  |  |  |  |  |  |  |  |  |
| **Information about entities associated with Partner Enterprise No... *(name, REGON, description of the relationship)*** |  | | | | | | | | |
| **Data of Partner Enterprise No... (complete data of the enterprise along with information about the enterprises associated with it)** |  |  |  |  |  |  |  |  |  |
| **Information about related and partner entities with associated enterprise no. … (name, REGON, description of the nature of the relationship)** |  | | | | | | | | |
| **Consolidated data of all related enterprises\*/Data resulting from the consolidated financial statements of related enterprises[[26]](#endnote-26)\***  ***\*delete as appropriate*** |  |  |  |  |  |  |  |  |  |

**Date and signature:**

**………………………………….**

**INSTRUCTION**  
**Regarding the completion of the Statement on Meeting the SME Criteria  
Along with the Attachments**

The primary objective of determining the SME status is to restrict the provision of assistance solely to enterprises facing difficulties characteristic of SMEs (e.g., access to financial resources, access to markets, etc.). Therefore, determining the SME status of the applicant is particularly significant for confirming the eligibility for funding and establishing the amount of such funding.

The applicant should determine their status as of the date of assistance provision (the date of signing the funding agreement): whether they are a micro, small, or medium enterprise. To determine the size of the enterprise, the provisions contained in Annex I to Commission Regulation (EU) No. 651/2014 of June 17, 2014, recognizing certain types of aid as compatible with the internal market in the application of Articles 107 and 108 of the Treaty (hereinafter: "Annex I to Commission Regulation (EU) No. 651/2014") should be applied.

When determining SME status and examining the impact of connections with other entities on SME status, reference can be made to the explanations contained in the European Commission's 2015 guide titled “User guide to the SME definition” (available only in English) accessible at <http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item_id=8274&lang=en&title=The-revised-user-guide-to-the-SME-definition>.

Additionally, an SME qualifier is available on the website <http://kwalifikator.een.org.pl/> to help determine the size of the enterprise.

The institution assessing the SME status, in order to verify the information contained in the statement, may use the financial information provided by the applicant along with the funding application. At the same time, the institution assessing the SME status, in case of any doubts regarding the correctness of the status determination, may:

1. Request the applicant to provide additional documents necessary for verification and determination, such as:
   * Financial statements of related and partner enterprises or other documents (e.g., financial, accounting, etc.) confirming the data contained in the Statement,
   * Clarifications regarding the information presented in the Statement, including the method used by the applicant to determine the type and level of connections with other entities.
2. Utilize legal information systems (e.g., Lex, Beck)
3. Seek assistance from economic intelligence companies.

1. If the project is a partnership and there is also a partner alongside the Applicant who is also required to submit a Declaration of Compliance with SME criteria, then any statements relating to the Applicant should be regarded as also relating to the partner. [↑](#endnote-ref-1)
2. The category of micro, small, and medium-sized enterprises (SMEs) includes businesses that employ fewer than 250 employees and have an annual turnover not exceeding 50 million EUR or an annual balance sheet total not exceeding 43 million EUR. The limits defining the size of enterprises are presented in the table below.

   |  |  |  |  |  |  |
   | --- | --- | --- | --- | --- | --- |
   | Enterprise size | Number of employees | Annual turnover | | Annual balance sheet total | |
   | Micro | < 10 | ≤ 2 mln euro | or | | ≤ 2 mln euro |
   | Small | < 50 | ≤ 10 mln euro | or | | ≤ 10 mln euro |
   | Medium | < 250 | ≤ 50 mln euro | or | | ≤ 43 mln euro |

   The applicant can choose a financial indicator (annual turnover or annual balance sheet total) to determine their status.

   **NOTE! Remaining in a partnership or affiliated business arrangement affects how employment levels and financial thresholds, which determine the possession or loss of SME status, are established.**

   If, at the end of the accounting period, the indicators of a given enterprise exceed or fall below the employment threshold or financial threshold, the acquisition or loss of SME status occurs **only if this phenomenon repeats itself over two consecutive reference periods**.

   The above rule does not apply to situations arising from changes in the ownership structure of the enterprise, for example:

   1. the acquisition of an SME by a large enterprise, thereby becoming an affiliated or partner enterprise.
   2. the loss of micro or small enterprise status may also occur if a micro enterprise is acquired by a small or medium-sized enterprise, and in the case of a small enterprise, as a result of acquisition by a medium-sized enterprise.

   When there is a change in the ownership structure, the status change occurs on the day **the change takes place if this results from a re-analysis of employment and financial data**. This mechanism also applies in the opposite situation, e.g., the sale of shares by the dominant entity and the termination of links between enterprises – in this case, the enterprise will be able to obtain/regain SME status immediately if its data falls within the thresholds defined for that category of enterprise.

   The above interpretation arises from the purposive interpretation of the wording of Annex I to Commission Regulation (EU) No 651/2014 and is based on the position of the European Commission as well as the case law of the EU Court of Justice (i.e., the Court and the CJEU). **The European Commission emphasized** that Article 4 of the Annex to Commission Regulation (EU) No 651/2014 allows micro, small, and medium-sized enterprises that temporarily exceed the thresholds defined in Article 2 to maintain their SME status if, at the end of the accounting period, that enterprise finds that it has exceeded the employment thresholds or financial thresholds specified in Article 2 on an annual basis, or has fallen below those thresholds. The acquisition or loss of medium, small, or micro enterprise status only occurs when this phenomenon repeats itself over two subsequent reference periods. These provisions were introduced to provide legal certainty for enterprises that are active in highly unstable markets. At the same time, the purpose of Annex I to Commission Regulation (EU) No 651/2014 is to identify true SMEs. One of the main goals of the SME definition is to ensure that aid is granted only to those enterprises that truly need it. A change in the ownership of an enterprise that results in a change in enterprise status must be viewed in light of the above-mentioned regulations. For example, if an SME is acquired by a large enterprise and becomes, for that reason, a partner or affiliated enterprise in the sense of Article 3 of Annex I, as a result of which it loses SME status, it cannot continue to benefit from SME status for a period of two consecutive years due to the application of Article 4(2) of Annex I. Such an SME no longer has to face the same problems (access to financial resources, resources, technology, etc.) it encountered before the acquisition, and consequently, it is no longer a true SME in the sense of the SME definition.

   **This approach was also expressed by the Office of Competition and Consumer Protection (UOKiK) in correspondence with the European Commission**: "The financial data of an independently developing enterprise may fluctuate, and the transitional period (i.e., the requirement for such a trend to repeat over two consecutive accounting periods) guarantees that the situation has stabilized. The economic situation and financial strength of enterprises acquired or sold by another entity, on the other hand, can change from day to day and is generally permanent; therefore, there is no reason for the status change to occur after two years. It should be noted that SMEs, due to their size, have limited access to capital, markets, distribution networks, or new technologies and are therefore entitled to use special assistance instruments designed for them or increased aid intensity. Conversely, enterprises that, due to actual or legal links with other entities, do not experience these market shortcomings, are not entitled to the benefits available to SMEs."

   In the case of newly established enterprises whose accounting records have not yet been closed, the applicable data comes from an assessment made in good faith according to best practice principles during the accounting year based on a business plan. [↑](#endnote-ref-2)
3. **Reference Period:** According to Article 4(1) of Annex I to Commission Regulation (EU) No 651/2014, the number of personnel and financial amounts are determined based on data from the most recently approved accounting period and are calculated on an annual basis. This data is taken into account starting from the day the accounting records are closed. The amount selected as turnover is calculated excluding VAT and other indirect taxes. If, on the date of closing the accounting records, the enterprise finds that it has exceeded the employment thresholds or financial thresholds specified in Article 2 on an annual basis, or has fallen below those thresholds, the acquisition or loss of medium, small, or micro enterprise status occurs only if this phenomenon is repeated over two consecutive accounting periods. If, due to the above provision, it is not possible to determine the acquisition of SME status based on the data presented for three accounting years, data from earlier accounting years must be provided until the status is repeated in two consecutive accounting years.

   According to Article 4(3) of the aforementioned Annex I, in the case of newly established enterprises whose accounting records have not yet been approved, the applicant presents relevant data derived from estimates made in good faith during the accounting year based on the business plan. [↑](#endnote-ref-3)
4. In the case where there has been a change in the status of the enterprise, a brief description should be provided regarding the circumstances that led to the loss or acquisition of the status of a micro, small, or medium enterprise, or an enterprise other than an SME. [↑](#endnote-ref-4)
5. **Independent Enterprise:**

   * It does not hold shares in other enterprises, and other enterprises do not hold shares in it.
   * It holds below 25% of the capital or voting rights (whichever is higher) in one or more enterprises, and/or other enterprises hold below 25% of the capital or voting rights (whichever is higher) in this enterprise.
   * If an enterprise is independent, it means that it is neither a partner enterprise nor a connected enterprise with another enterprise.

   An enterprise may have several investors, each holding below 25% of the capital or voting rights and still remain an independent enterprise, provided that these investors are not connected ("connected enterprises"). If these investors are connected, the enterprise will be classified as either a partner or connected enterprise, depending on the individual situation.

   **EXCEPTIONS:**

   An enterprise can be classified as independent and thus having no partner enterprises, even if the investors mentioned below have reached or exceeded the 25% threshold, provided that they are not connected in the sense of paragraph 3 of Annex I to Commission Regulation (EU) No 651/2014, either individually or jointly, with the given enterprise:

   * Public investment corporations, venture capital companies, individuals, or business angels, i.e., groups of individuals engaged in regular investment activities based on venture capital that invest in non-listed companies, provided that the total amount of business angel investments in one enterprise does not exceed EUR 1,250,000.
   * Higher education institutions or non-profit research centers.
   * Institutional investors, including regional development funds.
   * Independent local authorities with an annual budget of less than EUR 10 million and a population of less than 5,000.

   In the case of an independent enterprise, the basis for checking whether it meets the thresholds and limits is the number of employees and the financial data contained in its financial statements. [↑](#endnote-ref-5)
6. **Partner Enterprise** refers to all enterprises that are not classified as connected enterprises under Article 3(3) of Annex I to Commission Regulation (EU) No. 651/2014 and between which the following relationships exist:

   * An upstream enterprise holds, either alone or jointly with at least one connected enterprise as defined in paragraph 3, at least 25% of the capital or voting rights of another downstream enterprise.

   Establishing the status of SMEs requires adding to the data of the examined enterprise the data of the partner enterprise in a proportionate manner according to the percentage share in capital or voting rights (whichever is higher). [↑](#endnote-ref-6)
7. **Connected Enterprises** refer to enterprises that remain in one of the following relationships:

   An enterprise holds a majority of voting rights in another enterprise as a shareholder or member.

   An enterprise has the right to appoint or dismiss the majority of members of the administrative, management, or supervisory bodies of another enterprise.

   An enterprise has the right to exert **dominant influence** over another enterprise based on an agreement with that enterprise or provisions in its articles of association or partnership agreement.

   A shareholder or member of another enterprise controls, through an agreement with other shareholders or members of that enterprise, the majority of voting rights of shareholders or members in that enterprise.

   Enterprises that remain in one **of the relationships described above through at least one other enterprise, or one of the investors mentioned in Article 3(2), second paragraph, of Annex I** to Commission Regulation (EU) No. 651/2014, are also considered connected.

   Enterprises that maintain one of these relationships through a natural person or a group of natural persons acting jointly **are also regarded as connected enterprises if** they conduct their business or part of it in the same relevant market or in related markets as defined by the Commission’s notice regarding the definition of the relevant market for the purposes of Community competition law (OJ EC C 372/5).

   A "**related market"** is considered to be a market for a given product or service that is directly at a higher or lower level of the market in relation to the relevant market.

   **EXCEPTIONS:**

   It is assumed that dominant influence does not exist if the investors mentioned in paragraph 2 of Annex I to Commission Regulation (EU) No. 651/2014 are not directly or indirectly involved in the management of the given enterprise, without prejudice to their rights as shareholders.

   Outside the cases specified in Article 3(2), second paragraph of Annex I, an enterprise cannot be considered a small or medium-sized enterprise if, according to Article 3(4) of Commission Regulation (EU) No. 651/2014, 25% or more of the capital or voting rights is directly or indirectly controlled, jointly or individually, by at least one public body.

   **NOTE: The fundamental premise for recognizing an enterprise as connected is the issue of dominant influence. It is not relevant whether the dominant entity is the applicant or another enterprise that has a dominant influence on the applicant, and thus these dependencies should be considered bilaterally.**

   In determining the connections between enterprises, attention should also be paid to potential connections through natural persons or groups of natural persons (e.g., family ties) concerning:

   Economic connections (trade relations—achieving sales turnover within connected entities by natural persons or groups of individuals; financial relations—the existence of mutual financial relationships indicating the possibility of support for the applicant enterprise from connected entities through natural persons or groups of individuals, such as loans, credit guarantees, joint capital or asset investments, loan agreements, lease or rental agreements, franchise agreements, etc.; entity image—brand/entity name, entity logo, website address; joint presence in the market—shared clients, shared suppliers, shared service providers—e.g., accounting, advertising, legal, IT services, common scope of offered products or services)

   Organizational connections (e.g., a spouse running a business in the same or related market).

   Being in a connected enterprise structure influences the way the employment level and financial thresholds are determined, from which the status of SMEs is derived or lost. Establishing the status of SMEs requires adding to the data of the examined enterprise 100% of the employment value, turnover, or balance sheet of that enterprise in which the examined enterprise has a majority of voting rights, or 100% of the employment value, turnover, or balance sheet of the enterprise in which the examined enterprise holds a majority of voting rights. [↑](#endnote-ref-7)
8. See footnote 2.. [↑](#endnote-ref-8)
9. **The number of employees** - **the number of personnel** corresponds to the number of annual work units (AWU), which is the number of employees employed full-time within a given enterprise or on its behalf throughout the entire reference year. The work of individuals who have not worked a full year, those working part-time regardless of the length of employment, or seasonal workers is calculated as a fractional part of the AWU. The personnel consists of:

   1. Employees - according to Article 2 of the Act of June 26, 1974, Labor Code, an employee is a person employed under an employment contract, appointment, election, designation, or cooperative employment contract.
   2. Individuals working for the enterprise, subject to it, and considered employees under national law, including those employed under civil law contracts (e.g., contract of mandate, contract for specific work, service contract).
   3. Owner-managers - this category includes individuals employed under management contracts as well as owners (e.g., shareholders) of the company who are engaged in any way in managing the enterprise, and do not only receive dividends from profits.
   4. Partners conducting regular activities in the enterprise and deriving financial benefits from it - this category includes individuals who, having registered a business, perform work for a specific entity; however, these duties are performed under a contract of mandate, where the worker (the enterprise registered by them) is the contractor, while the employer is the principal; this group also includes partners of a partnership.
   5. Temporary workers providing work for a given employer should be considered members of the personnel of that enterprise and taken into account when assessing that enterprise's membership in the SME sector.

   Interns or students undergoing vocational training under a training agreement are not included in the personnel.

   The duration of maternity or parental leave is not counted. The general principle that should apply when converting the work of a given person into numerical values of AWU should reflect their contribution to the enterprise's potential. One AWU is any person who regularly, full-time, and throughout the entire reference year performs work, regardless of the legal form regulating the scope of their duties on behalf of the enterprise. For individuals who have not worked a full year or who perform part-time work, the value of the AWU is calculated as a fraction of their working time relative to the time dedicated to a standard AWU (40 hours per week). For individuals whose working time is not regulated, the actual time spent performing duties should be considered in relation to a single AWU. [↑](#endnote-ref-9)
10. **The annual turnover** is calculated by determining the revenue that the enterprise has generated from the sale of products and the provision of services during the relevant year, after deducting any discounts. The turnover should be calculated excluding VAT and other indirect taxes. Amounts expressed in PLN concerning annual turnover are converted into EUR using the average exchange rate published by the National Bank of Poland on the last day of the financial year selected for determining the entrepreneur's status. [↑](#endnote-ref-10)
11. **The total annual balance** refers to the value of the main assets of the enterprise. Amounts expressed in PLN concerning the annual balance sheet total are converted into EUR using the average exchange rate published by the National Bank of Poland on the last day of the financial year selected for determining the entrepreneur's status. [↑](#endnote-ref-11)
12. **Relationship through a natural person** – enterprises that remain in one of the relationships described in Article 3(3) of Annex 1 to Commission Regulation (EU) No 651/2014 through a natural person or a group of natural persons acting together are also considered to be related enterprises if they conduct their activities or part of their activities in the same relevant market or related markets. Only those relationships that concern connections through natural persons (who have a decisive influence on the management/decision-making in the given enterprises or hold a majority stake in shares) with other entities operating in the same or related markets are significant here. A related market is one that is directly adjacent in the production chain (e.g., energy production-energy distribution). Therefore, the entrepreneur, when completing the Statement, must decide whether the influence of a given natural person on another enterprise has the characteristics of the relationships described in Article 3(3) of Annex 1 to Commission Regulation (EU) No 651/2014. For example, if a person is the president of an enterprise and also sits on the board of another entity or is its owner, it is considered that these entities are related through that person if they exert a **dominant influence on the activities of these enterprises.**

    **NOTE! Natural persons conducting business activities are treated as enterprises, not as natural persons referred to above.** [↑](#endnote-ref-12)
13. Enterprises that prepare consolidated financial statements or are included in the reports of another enterprise that prepares such statements are not considered **independent enterprises.** [↑](#endnote-ref-13)
14. 15 See footnote 14. [↑](#endnote-ref-14)
15. See footnote 3. [↑](#endnote-ref-15)
16. See footnote 9. [↑](#endnote-ref-16)
17. See footnote 10. [↑](#endnote-ref-17)
18. See footnote 11. [↑](#endnote-ref-18)
19. **Establishing data for a partner enterprise:**

    When determining whether a particular enterprise, which is in a partnership relationship with another entity/entities, qualifies for SME status, the **data concerning the number of employees and financial data of the partner enterprise should be added proportionally to the percentage share in capital or voting rights** (whichever value is greater).

    If the partner enterprise is linked to another enterprise with the Applicant, the data related to that enterprise (employment, balance sheet, turnover) should be included in the data of the considered partner enterprise. The rules for calculating data of enterprises in partnership relationships are defined in Article 6(2) and (3) of Annex I to Commission Regulation (EU) No 651/2014.

    For example, if an enterprise holds a 30% share in another enterprise, 30% of the number of employees, turnover, or total annual balance should be added to its own data. If there are multiple partner enterprises, the same calculation should be performed for each partner situated directly at the "upstream" and "downstream" levels relative to the enterprise.

    **Example:**

    * **A is the Applicant/Partner in the Project.**
    * A holds 33% of shares in enterprise C.
    * A holds 49% of shares in enterprise D.
    * B holds 25% of shares in enterprise A.

    |  |  |  |  |
    | --- | --- | --- | --- |
    | **Enterprise** | **Employment** | **Annual Turnover** | **Total Annual Balance Sheet** |
    | **Data A** | 100% data A | 100% data A | 100% data A |
    | **Data C** | 33 % data C | 33 % data C | 33 % data C |
    | **Data D** | 49% data D | 49% data D | 49% data D |
    | **Data B** | 25 % data B | 25 % data B | 25 % data B |

    **Data for calculating the status of A:**

    100% A + 49% D + 25% B + 33% C. [↑](#endnote-ref-19)
20. See footnote 14**.** [↑](#endnote-ref-20)
21. See footnote 3. [↑](#endnote-ref-21)
22. See footnote 9 [↑](#endnote-ref-22)
23. See footnote 10. [↑](#endnote-ref-23)
24. See footnote 11. [↑](#endnote-ref-24)
25. If the company related to the Applicant is a partner or connected to another company, data regarding that company (employment, balance sheet, turnover) should be added to the data of the related company under consideration. The calculated data should then be presented as data for that related company. [↑](#endnote-ref-25)
26. Aby ustalić **czy dane przedsiębiorstwo, pozostające w relacji przedsiębiorstw powiązanych zachowuje próg zatrudnienia i pułapy finansowe ustanowione w definicji MŚP**, należy przedstawić dane dot. wielkości zatrudnienia, wysokości obrotu rocznego oraz sumy aktywów bilansu, w związku z tym należy dodać 100% danych przedsiębiorstwa powiązanego do danych przedsiębiorstwa.

    Natomiast, jeśli przedsiębiorstwo nie sporządza sprawozdań skonsolidowanych, a przedsiębiorstwo z którym dany przedsiębiorca jest powiązany, także jest powiązane na zasadzie łańcuchowej z innymi przedsiębiorcami, należy dodać do swoich danych 100% danych wszystkich przedsiębiorstw powiązanych. Zasada obliczania danych przedsiębiorstw pozostających w relacji partnerskiej określa art. 6 ust.2 Załącznika nr I do Rozporządzenia Komisji (UE) nr 651/2014.

    **Przykład:**

    **Przedsiębiorstwo A jest Wnioskodawcą w Projekcie**

    A posiada 51% udziałów w przedsiębiorstwie C.

    A posiada 100% udziałów w przedsiębiorstwie D.

    B posiada 60% udziałów w przedsiębiorstwie A.

    W każdym przypadku udział jest większy niż 50% przy obliczaniu liczby zatrudnionych i pułapów finansowych przedsiębiorstwa A należy wziąć 100% danych każdego z czterech przedsiębiorstw, o których mowa.   
    **Dane łączne przedsiębiorstwa powiązanego:** 100%A+100%B+100% C+100% D.

    **UWAGA!:** **Wyjątek stanowią przedsiębiorstwa, których dane ujęte są w skonsolidowanych sprawozdaniach finansowych. Wówczas do tabeli należy wprowadzić dane (odnoszące się do ww. wielkości) wynikające ze skonsolidowanego sprawozdania finansowego. W takim przypadku należy wprowadzić przedmiotowe dane w wierszu „Zsumowane dane wszystkich przedsiębiorstw powiązanych/Dane wynikające ze skonsolidowanego sprawozdania finansowego przedsiębiorstw powiązanych” Wypełnianie pozostałych wierszy (dotyczących poszczególnych podmiotów wchodzących w skład grupy sporządzającej skonsolidowane sprawozdania finansowe, w których ujęte zostały dane Wnioskodawcy/Partnera   
    w Projekcie) nie będzie w tym przypadku konieczne.**

    **W przypadku, gdy w skonsolidowanych sprawozdaniach finansowych nie ma danych dotyczących liczby zatrudnionych w danym przedsiębiorstwie, dane dot. zatrudnienia są obliczane przez dodanie danych   
    z przedsiębiorstw, z którymi przedsiębiorstwo to jest powiązane.**

    To determine **whether a given company, which is in a relationship with related enterprises, meets the employment threshold and financial limits established in the definition of SMEs**, data concerning employment size, annual turnover, and balance sheet assets must be presented. Therefore, 100% of the data from the related company should be added to the company's data.

    If the company does not prepare consolidated financial statements and the company to which the entrepreneur is linked is also connected in a chain with other companies, 100% of the data from all related companies should be added to their own data. The principles for calculating data for companies in a partnership relationship are specified in Article 6, paragraphs 2 and 3 of Annex I to Commission Regulation (EU) No. 651/2014.

    **Example:**

    **Company A is the Applicant in the Project.**

    A holds 51% of the shares in company C.

    A holds 100% of the shares in company D.

    B holds 60% of the shares in company A.

    In every case, since the share is greater than 50%, when calculating the number of employees and financial thresholds for company A, 100% of the data from each of the four companies mentioned should be taken into account.

    **Total data from related companies:** 100% A + 100% B + 100% C + 100% D.

    **NOTE! An exception applies to companies whose data is included in consolidated financial statements. In this case, data (related to the aforementioned sizes) resulting from the consolidated financial statement should be entered into the table. In such a situation, the relevant data should be recorded in the row "Combined data of all related companies/Data from the consolidated financial statement of related companies." It will not be necessary to fill out the other rows (concerning individual entities included in the group preparing the consolidated financial statements, which include the Applicant/Partner in the Project) in this case.**

    **If the consolidated financial statements do not contain data on the number of employees in a given company, employment data is calculated by adding data from the companies with which that company is related.** [↑](#endnote-ref-26)