


Annex I - public authorities and SME definition

1. **Page title:** Please insert the full Article reference (e.g. "Art. 1(4) a") and a short title (e.g. "Deggendorf principle")
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Article	Annex I
Key words	SME definition; public authorities; municipalities; local authorities; public bodies
Member State	HU
Question	<p>In a reply to an ECN question asked by Czech Republic (27/01/15), the Commission emphasized that "according to Art 3.4 of the SME Recommendation, an enterprise which is directly or indirectly owned or controlled by a public entity cannot be considered an SME . This would be therefore the case for all municipalities and local authorities, as they would be found under the control of the central Government".</p> <p>According to Article 3(2), "an enterprise may be ranked as autonomous, and thus as not having any partner enterprises, even if this 25 % threshold is reached or exceeded by the following investors, provided that those investors are not linked, within the meaning of paragraph 3, either individually or jointly to the enterprise in question:</p> <p>(d) autonomous local authorities with an annual budget of less than EUR 10 million and less than 5 000 inhabitants."</p> <p>In our view, if an undertaking is owned by 3 municipalities falling under Art. 3(2) (with each of them owning 33.3% of the undertaking concerned), this undertaking is considered as an SME taking into account the fact that in Hungary municipalities are independent and are not under the control of the central Government.</p> <p>Please confirm whether our understanding is correct.</p>
Creation Date	

COMP Reply	<p>An enterprise is not an SME according to the definition if 25% or more of its capital or voting rights are directly or indirectly owned or controlled, jointly or individually, by one or more public bodies. The reason for this stipulation is that public ownership may give certain advantages to enterprises, notably financial, over other enterprises that are financed by private capital. In addition, it is often not possible to calculate the relevant staff and financial data of public bodies.</p> <p>The types of investors listed on page 17, such as universities or autonomous local authorities, which have the status of a public body under national law, are not covered by this rule. The total holding by such investors in an enterprise may add up to a maximum of 50% of the enterprise's voting rights. Above 50%, the enterprise cannot be considered an SME. This seems to be the case in the situation described above.</p> <p><i>Disclaimer: This reply does not represent a formal and definite position of the European Commission but is only an informal guidance provided by the services of DG Competition to facilitate the application of the GBER. It is therefore not binding and cannot create legal certainty or legitimate expectations.</i></p>
COMP Reply date	2015.05.19
COMP Responsible	<input checked="" type="checkbox"/> COMP 03 eState aid WIKI

¹ Article numbers & names

² AU, BE, BG, HR, CY, CZ, DK, EE, FI, FR, DE, EL, HU, IE, IT, LV, LT, LU, MT, NL, PL, PT, RO, SK, SI, ES, SE, UK.