

Annex I Article 3 - dominant influence in case of stake participation exceeding 50%

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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3. **Questions:** Please create 1 question page per question
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Article	Annex I Article 3
Key words	autonomous enterprise, dominant influence, majority shareholder
Member State	PL
Question	<p>Enterprise can be regarded as autonomous, and thus as not having any partner enterprises, even if investors (e.g. public investment corporations) have reached or exceeded the 25% threshold, provided that they were not linked within the meaning of paragraph 3, either individually or jointly, to the enterprise in question.</p> <p>It is assumed that no dominant influence exists if the investors listed in paragraph 2 indent 2 do not engage directly or indirectly in the management of the enterprise, without prejudice to their rights as shareholders/stockholders.</p> <p>In view of the above, can the enterprise be considered independent if the investor referred to in Article 3(2) holds more than 50% of its shares/stocks? Is it possible that there is no dominant influence when such an investor holds 100% of shares/stocks in the enterprise?</p> <p><i>If so, what conditions have to be met in order for the enterprise not to be considered linked to the investor holding more than 50% of the shares?</i></p>
Creation Date	2015.11.14
COMP Reply	<p>No. The assumption above is only valid when the investor holds between 25% and 50% of the shares and therefore, in some circumstances, the enterprises may not be considered partner. Once the stake participation exceeds 50%, it is assumed that the investor holds a dominant influence and the companies shall be considered linked undertakings in the sense of Art.3(3)a</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	2015.12.14
COMP Responsible	<input checked="" type="checkbox"/> COMPSupport ESTATE-AID-WIKI

¹ Article numbers & names

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