

# Small and medium-sized enterprises

How to assess the status, determine the number of employees, and calculate turnover?



A small and medium-sized enterprise is an entity carrying out economic activity, employing fewer than 250 persons, and generating annual turnover not exceeding €50 million or an annual balance sheet total not above €43 million.

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Calculations are based on the data for the enterprise being assessed, and for its 'partner' and 'linked' enterprises; in practice, this often means that data for the entire group or its major part are included.

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An incorrect determination can lead to fines, the recovery of granted subsidies (plus interest), contract nullity, or breaches of due managerial care.

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We therefore recommend leaving the assessment of small and medium-sized enterprises to experienced professionals.

## Where can we come across the term?

The definition of the term 'small and medium-sized enterprise' (SME) has recently gained importance. It is used, e.g., in legislation involving competition law, subsidies, energy, or non-financial reporting. Examples include:

- the Act on Significant Market Power
- the Government Regulation on the Determination of Electricity and Gas Prices in an Exceptional Market Situation
- the Ministry's Programme of Support for Increased Costs of Natural Gas and Electricity due to Exceptionally Sharp Increase in their Prices
- the Corporate Sustainability Reporting Directive.

We can also expect to encounter this definition more and more frequently as Czech and EU law converge. Therefore, for individual companies it is good to know whether they can be regarded as SMEs.

## Small and medium-sized enterprise

The EU Commission's recommendation concerning the definition of micro, small, and medium-sized enterprises defines a small and medium-sized enterprise as an entity carrying out an economic activity which

- employs fewer than 250 persons and
- whose annual turnover does not exceed €50 million or whose annual balance sheet total does not exceed €43.

This concept doesn't automatically mean a commercial company, as entrepreneurs - natural persons, associations without legal personality or corporate groups can also be regarded enterprises if they carry out economic activity. This also has an impact on determining the number of employees and the balance sheet total.

## Determining the number of employees and calculating turnover

When calculating the data, it is necessary to consider not only the numbers of the enterprise being assessed, but also those of its:

- 'partner' enterprises (usually an enterprise that owns between 25% and 50% of the share capital)
- 'linked' enterprises (usually an enterprise that owns more than 50% of the share capital).

Whereas for partner enterprises, the number of employees and the turnover/balance sheet total must be included in the calculation only in proportion to its share of the capital or voting rights, for linked enterprises, 100% of the data must be included.

Thus, in practice, data for the whole group or its major part often must be included in the calculation of employee numbers and turnover/balance sheet totals. Such data can be derived from the financial statements, although not always.

## Consequences of incorrect determination of SMEs

Determining a small and medium-sized enterprise is not a simple exercise. We therefore recommend a detailed assessment by experienced professionals, particularly for companies that are part of a group. An incorrect determination may have various negative consequences for your company and its management, including the breach of law. Examples include:

- poor assessment of potential risks
- penalisation
- recovery of granted subsidies (plus interest)
- nullity of contracts
- breach of due managerial care and subsequent liability for damage.

**We will be happy to help you assess your company's status as an SME, including determining the number of employees and calculating your turnover/balance sheet total.**

### Contact us



**Viktor Dušek**  
Director  
KPMG Legal  
T: +420 222 123 746  
E: [vdusek@kpmg.cz](mailto:vdusek@kpmg.cz)



**Tomáš Kočář**  
Attorney  
KPMG Legal  
T: +420 222 123 658  
E: [tkocar@kpmg.cz](mailto:tkocar@kpmg.cz)

[kpmglegal.cz](https://www.kpmglegal.cz)

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