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DAVYDIUK, O. M.¹ (<https://orcid.org/0000-0002-6699-0903>),
SHOVKOPLIAS, G. M.² (<http://orcid.org/0000-0003-0313-8606>),
USATYI, V. O.² (<https://orcid.org/0009-0004-3325-4530>),
IVANOVA, H. S.³ (<https://orcid.org/0000-0002-2658-3502>),
BYTIK, O. Yu.² (<https://orcid.org/0000-0002-4555-4934>),
and DUIUNOVA, T. V.³ (<https://orcid.org/0000-0002-8164-7783>)

¹ Providing Legal Framework for the Innovative Development,
80, Chernyshevska St., Kharkiv, 61002, Ukraine,
+380 57 700 0663, ndipzir@gmail.com

² Yaroslav Mudriy National Law University,
77, Hryhoriya Skovorody St., Kharkiv, 61024, Ukraine,
+380 57 757 7293, kancel@nlu.edu.ua

³ State Biotechnology University,
44, Alchevskikh St., Kharkiv, 61002, Ukraine,
+380 68 660 3281, info@btu.kharkiv.ua

INNOVATION IN THE LEGAL REGULATION OF SMALL (MEDIUM) ENTERPRISES IN THE EU LAW

Introduction. *Small (medium) enterprises (SMEs) are fundamental participants in economic relations within the European Union (EU). Consequently, their legal status has been continually refined to address functional challenges. At present, SMEs are classified as a unique economic and legal category that may be designated to any business entity meeting specified criteria.*

Problem Statement. *The criteria distinguishing SMEs from other business forms – primarily maximum employee count, accumulated financial resources, and annual turnover – have been found insufficient to effectively distinguish SMEs from larger companies seeking preferential status.*

Purpose. *This study aims to propose enhancements to the existing normative framework defining SMEs, establishing a foundation for a more effective, future-oriented legal regulation of SME status within EU law.*

Materials and Methods. *The study examines the normative framework defining SMEs and applies formal-logical methods, including analysis and interpretation of scientific, regulatory, and economic categories. Methods of modeling, deduction, induction, and comparison have also been employed.*

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Results. *The study has analyzed the primary stages of development and effectiveness of the normative concept of SMEs in EU law. Recommendations for enhancing the innovativeness of current regulatory mechanisms have been developed. An additional criterion – engagement in commercial economic activity – has been justified as essential. Further, the study substantiates the potential benefits of replacing the SME status with a distinct, temporary organizational-legal form.*

Conclusions. *The current regulatory framework for SMEs within EU law requires refinement. The proposed recommendations are supported by their potential to address existing regulatory challenges related to SME status effectively.*

Keywords: small (medium-sized) enterprises, entrepreneurship rights, labor rights, Horizon Europe framework program.

Small (medium) enterprises (SMEs) are essential economic entities within the European Union (EU), comprising between 65% to 98% of all organizational business forms [1, 2]. Consequently, their legal status and participation in economic relations are central to the economic policies of EU member states. However, the existing regulatory framework for identifying SMEs in EU law is complex and somewhat flawed. This has led medium and large enterprises to exploit loopholes, attempting to artificially obtain SME status and thereby avoid certain regulatory obligations. This issue requires resolution, as SMEs benefit from a preferential regulatory regime aimed at supporting their activities during early development and initial scaling phases.

Purpose of the Study is to develop directions for enhancing the legal status of SMEs. The findings could serve as a basis for innovative changes in international agreements, domestic regulations of EU member states, EU legislation (hereinafter “EU”), and/or for future research.

To achieve this objective, the following tasks have been identified:

- ◆ To outline the stages of development of the regulatory concept for SMEs and to assess the innovative shifts in understanding their legal status within EU law;
- ◆ To analyze the alignment of the current regulatory concept for SMEs with the needs of societal stakeholders involved in these economic relations;
- ◆ To formulate conceptual proposals for the innovative revision of the SME framework, both in its substantive and formal aspects.

EVOLUTION OF THE REGULATORY DEFINITION OF SMALL (MEDIUM) ENTERPRISES

The level of development of any country’s economic system directly depends on access to natural resources, labor, financial means, and the technological advancement of the production sector. Among these factors, the number and level of development of economic entities creating socially valuable products hold particular significance. Their numbers determine the overall output of economic activity, while competition among them accelerates economic growth. Economically advanced countries strive to ensure a steady increase in the number of entrepreneurs, establishing necessary legislative and organizational conditions for this purpose. In many national systems, it is sufficient to guarantee individual rights to engage in entrepreneurial activities; others support the functioning of permanent centers for training and assistance to producers.

One of the key economic features of development in European Community countries is the foundation of their socio-economic growth on small and medium enterprises (SMEs) [1, 2]. As a result, these countries have focused their efforts on stimulating economic growth through SMEs, a distinct category of business entities. In all European nations, SMEs comprise an absolute majority of producers [3]. As of 2008, SMEs accounted for 63% of all business entities in EU countries, and by 2020, this share had reached 99% [3].

For a long period, SMEs were not explicitly defined in the legislative acts of the European Union or the European Community. The need to legally establish the nature of SMEs emerged in

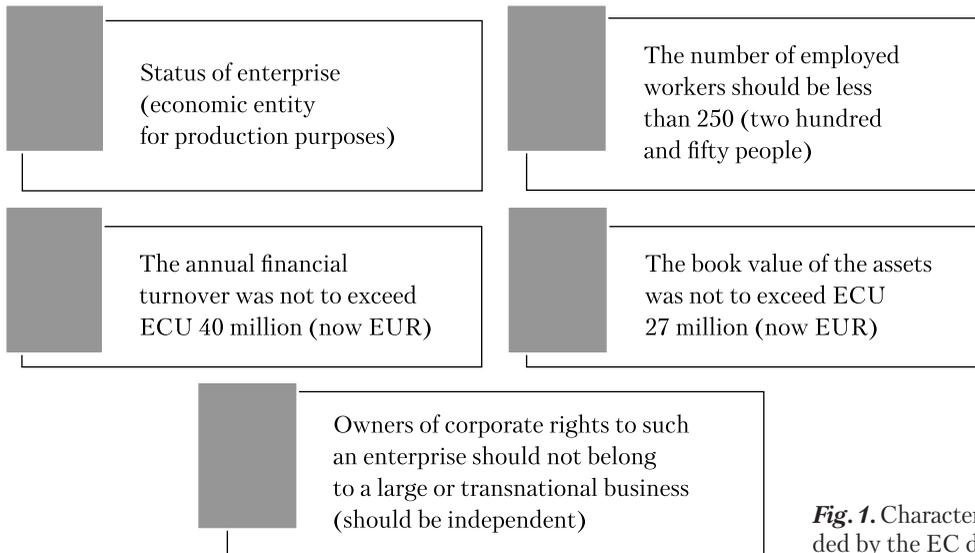


Fig. 1. Characteristics of SMEs, as recommended by the EC dated April 03, 1996

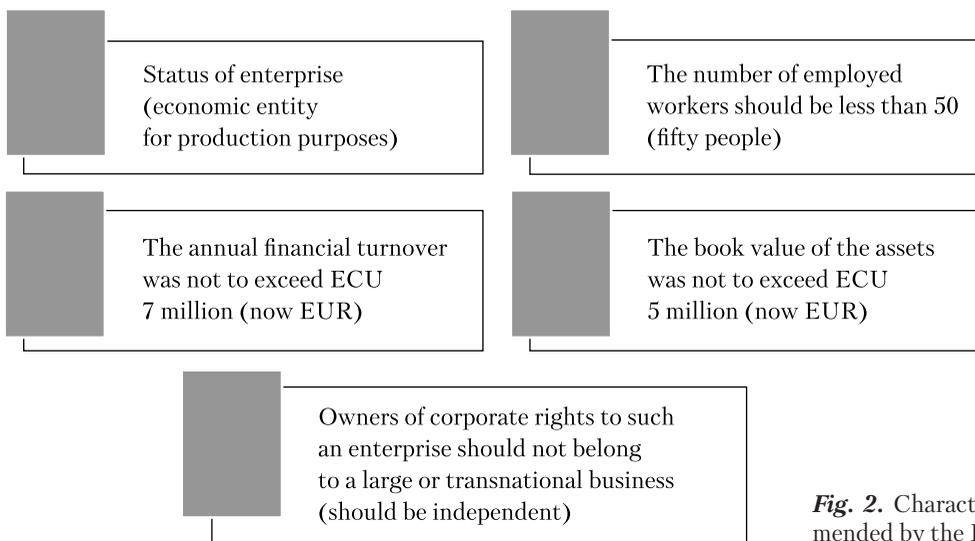


Fig. 2. Characteristics of SMEs, as recommended by the EC dated April 03, 1996

the 1990s, leading to the adoption of a series of declarative and advisory decisions within the EU, which later formed the legal status of SMEs [4]. For instance, on April 3, 1996, the European Communities Commission issued recommendations on the definition of small and medium enterprises [5]. This document clarified that these recommendations were introduced because the legislation of EU member states lacked a unified definition of SMEs, often relying on customary law for clarification. This situation re-

duced the effectiveness of state support measures implemented within national economic policies [5]. These recommendations outlined a specific set of characteristics for SMEs [4], as illustrated in Fig. 1.

Alongside the general definition of SMEs, the Recommendations of the European Communities Commission also provided a definition specifically for small enterprises, intended to distinguish microenterprises from SMEs [5]. These defining characteristics are illustrated in Fig. 2.



Fig. 3. Periodization of the development of programs for enterprises and entrepreneurship, in particular for small and medium-sized enterprises

These recommendations can be considered the first normative attempt to establish a formal definition of SMEs within the legal framework of the European Community. They have since served as the foundation for the majority of subsequent regulatory documents issued by European Union institutions on this subject, as the criteria set forth have largely remained unchanged. According to this document, the essence of SMEs is simplified to the concept of a business entity engaged in traditional economic activities. Any legal entity meeting specified criteria for workforce size, turnover, or asset value could attain SME status. However, this approach has evolved, and it is now broader than previously defined. On June 19, 2000, the European Charter for Small Enterprises was adopted [6].

For the first time, this legal act recognized SMEs as key players in innovation and primary recipients of support for fostering innovation and technology transfer. The Charter affirmed that SMEs could satisfy the consumer needs of the European community, identified them as a principal source of new job creation, and as a means of implementing the right to work. Furthermore, it proclaimed SMEs

as instruments for exercising the absolute human right to entrepreneurship. SMEs, according to the Charter, should not solely be identified as production-oriented entities but rather as companies that, under the laws of EU member states, are subject to state registration [6].

The European Charter for Small Enterprises established obligations for all EU institutions to implement continuous, systematic support, evaluate the effectiveness of such support, and simplify the processes for SME establishment and operation. With the adoption of this Charter, the European Union delineated the overarching policy directions for state institutions and community governance bodies in relation to SMEs. The institutional role of SMEs within the economic system of the European Community was clarified. An analysis of the Charter reveals a shift in the conceptual understanding of the nature of SMEs. In the 1996 Recommendations [5], SMEs were regarded as production-oriented business entities. However, under the 2000 European Charter, SMEs were redefined as companies. The distinction between these two classifications lies in the types of

economic activities they are permitted to conduct. Traditionally, an enterprise performs production activities (e.g., manufacturing consumer goods or industrial products), whereas a company typically engages in a broader range of activities, including trade, brokerage, services, financial services, and securities trading. At this stage of the SME concept's evolution within EU law, it can be observed that SMEs are still equated with business entities as defined by the national laws of EU member states. However, they may now obtain SME status even if their business activities differ from traditional production.

Identifying SMEs as participants in innovation processes is also crucial, as it automatically entitles these entities to seek public support for innovation and technology transfer initiatives.

On December 29, 2000, the Council of the European Union adopted its first multiannual program for businesses and entrepreneurship, specifically targeting small and medium-sized enterprises [7]. The initial program spanned from 2001 to 2005 and was subsequently reviewed and extended for other periods. The timeline of EU programs for business and entrepreneurship, particularly for small and medium-sized enterprises, is shown in Fig. 3.

Within the framework of this program, additional financial and organizational support mechanisms for SMEs were announced. The program emphasized that SMEs should form the foundation of innovation, serve as a primary means for realizing the right to entrepreneurship, and play a central role as employers within the European Union. An independent EU institution, the European Technology Fund (ETF), was established under the management of the European Investment Fund (EIF) to coordinate SME support and monitor their operational effectiveness [7].

A systematic analysis of this program reveals that SMEs were identified as a principal mechanism for realizing the right to engage in entrepreneurial activities — specifically, independent and initiative-driven activities carried out at one's own risk with the goal of profit generation [7]. However, the requirement of profit as a core element of

SME legal status serves as a limiting criterion, given that not all business entities — whether involved in production or endowed with broader economic competencies — are established with the aim of profit generation. Many of these entities are formed to achieve economic outcomes or social impact.

The authors have observed that, at this stage of the SME concept's evolution, SMEs were effectively equated with business entities. Beyond this shift in understanding their fundamental nature, the program also introduced an additional eligibility criterion for SME status. Prospective SMEs were now required to align their internal economic activities with specific technical regulatory documents — technical standards — set by the EU institutions [7]. Consequently, the SME status could only be granted to business entities that conducted their operations according to the EU's designated regulatory framework.

On March 6, 2003, following a meeting of the Council of Europe, recommendations were adopted aimed at enhancing labor rights standards for employees [8]. Of particular relevance to this study is the identification of small and medium-sized enterprises (SMEs) as key participants in labor relations within the European Union. The recommendations established their obligation to adhere to all labor rights for employees without exception. Additionally, it was advised that SMEs should be entrusted with additional responsibilities concerning employee social security.

This development further unifies the essence of the status of SMEs, designating them as the primary recipients of labor outcomes and the most widespread employers within the European Union. In this context, SMEs were recognized solely as entities responsible for providing employment to hired workers, with their employer status intended to be equivalent to that of other business entities. Consequently, EU governing bodies determined that there would be no privileges or concessions in the realm of labor relations for SMEs.

An analysis of the content of this regulatory document reveals that SMEs are mandated to engage in labor relations while ensuring that hired em-

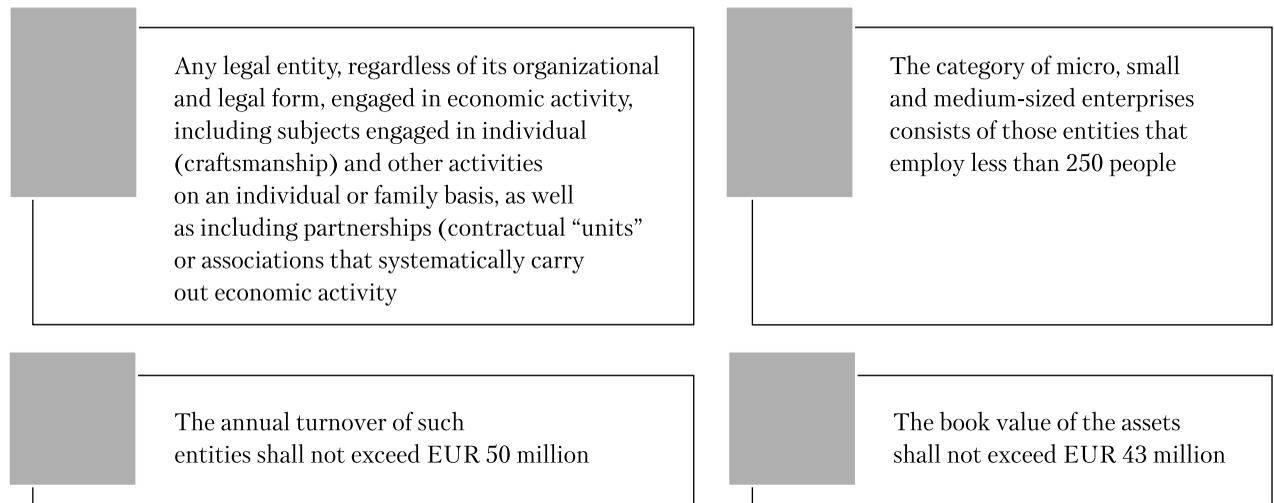


Fig. 4. Characteristics of a small enterprise, as recommended by the European Commission dated May 6, 2003

ployees possess the same rights and obligations as those employed by other business entities. Furthermore, SMEs were advised to avoid artificially substituting labor relations with partnership arrangements or contracts governed by other forms of civil law agreements.

The existence of all the aforementioned regulatory acts has not resolved the primary issues that prompted their adoption. The unification of the definition of small and medium-sized enterprises (SMEs) within EU law has yet to occur. This failure has served as the basis for further organizational initiatives within EU institutions and the adoption of additional regulatory acts.

On May 6, 2003, the European Commission approved recommendations aimed at clarifying the understanding of small and medium-sized enterprises [9]. This document is intended to unify the conceptual understanding of the organizational and legal nature of SMEs within EU law [9]. The characteristic features of small enterprises, as outlined in the European Commission’s recommendations, are presented in Fig. 4.

Alongside the general definition of small and medium-sized enterprises (SMEs), the European Commission’s recommendations also specify the characteristics of small enterprises and micro-enterprises. A small enterprise is defined as one that employs

fewer than 50 individuals, with an annual turnover and/or total annual balance not exceeding 10 million euros. A micro-enterprise, on the other hand, is defined as one that employs fewer than 10 individuals and has an annual turnover and/or total annual balance not exceeding EUR 2 million [9].

The next stage in the development of the SME concept began in 2008, with the adoption of a regulatory document titled *Think Small First – Small Business Act for Europe* [10]. Although this document does not contain definitions of what the status of SMEs should be, it is dedicated to establishing a comprehensive system of state regulation of the economic activities of these entities. As a result of this document’s adoption, the right of EU member states to formulate their own distinct state policies in this area was limited. All EU countries were obligated to reduce the tax burden on SMEs and organize training systems for individuals intending to start their own businesses in this organizational form. A series of other decisions were made with the goal of ensuring a uniform organizational influence on all SMEs within the European Union. The adoption of the Small Business Act was necessitated by the need to unify the organizational rules governing the functioning of SMEs, as the EU institutions clearly declared in its text that different approaches to

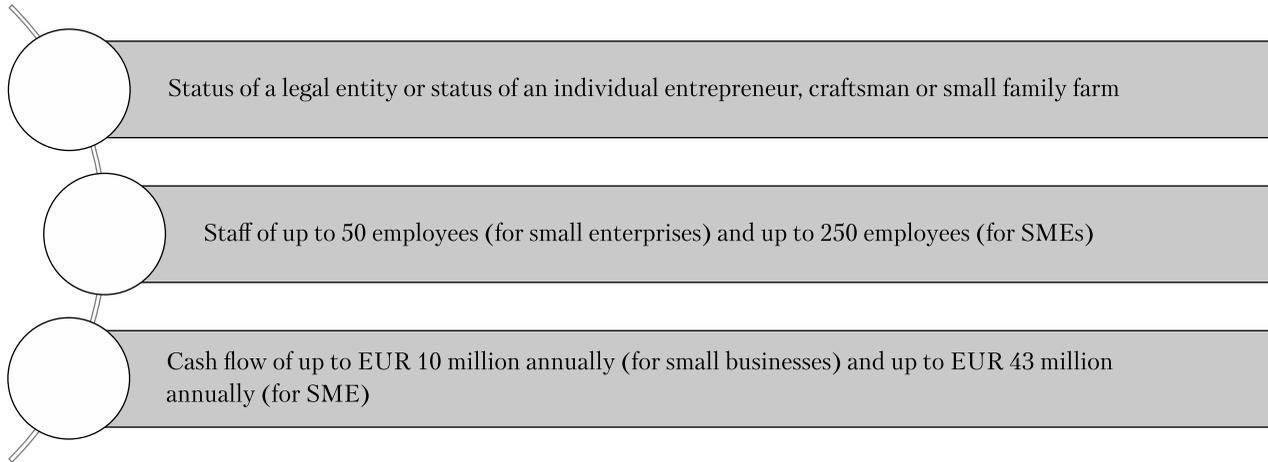


Fig. 5. Generalized characteristics of SMEs, as per the EU Law

the essence of these entities are a negative phenomenon affecting the number of decisions made to establish small and medium-sized enterprises.

A significant phase in the development of the SME concept can be seen in the implementation of a system of innovative support and technology transfer mechanisms. On April 28, 2021, the European Parliament approved the Horizon Europe Research and Innovation Framework Program (Regulation No. 2021/695), marking the ninth such framework program [11]. Its primary aim is to strengthen the European Research Area (ERA) and support research and innovation (R&I) activities to fulfill strategic priorities and commitments. Within the framework of the innovation support system, SMEs occupy a special place, being identified as key recipients of support and the main source of innovative processes. A systematic analysis of the Horizon Europe framework program reveals that SMEs are endowed with a broader range of opportunities than other candidates for certain forms of financial support [12]. SMEs have been identified as the main driving force behind innovation processes, thereby placing them in a distinct category of economic entities. Overall, the systematic analysis of the Horizon Europe framework program shows that the concept of defining the essence of SMEs is rooted in the provisions of the 2003 recommendations for identifying

small and medium-sized enterprises. However, these provisions have expanded the general understanding of SMEs by adding another legal authority, specifically identifying them as a type of startup within the system of measures supporting innovation processes and technology transfer.

The outlined stages of the SME concept's development indicate that it is undergoing phases of evolutionary growth. The presence of changes, defined by certain challenges, underscores the imperfections within the established concept of their organizational and legal nature. This highlights the relevance of scientific research focused on identifying and selecting proposals to enhance their essence.

The EU's adoption of the Horizon Europe Framework Program can be considered the latest stage in the SME concept's evolutionary development in EU law. Since the program's adoption, the essence of SMEs has not been revised or altered. Thus, from 2021 onwards, a consolidated regulatory approach to defining SMEs has been in effect, which will be further adopted as the foundation for this research study. By employing a systematic analysis method throughout the examination of all normative sources studied, the authors have compiled the generalized characteristics of SMEs within EU regulatory frameworks.

The generalized characteristics of SMEs under EU law are illustrated in Fig. 5.

Primarily, SMEs are identified as legal entities [1, 2], meaning organizations that enable the accumulation of separate property or financial resources that support their operational activities. Under EU law, this definition encompasses all legal entities, including scientific institutions, infrastructure organizations, and entities involved in non-commercial activities. Thus, a broad approach to defining legal entities that qualify as SMEs can be observed, extending to all legal entities directly or indirectly engaged in the production of social goods within the economic system.

This broad understanding of SMEs' essence also applies to non-legal entity participants. These may include sole proprietors, artisans, and small family-owned enterprises. Their shared characteristics are the absence of a special economic status as legal entities and a limited scope of business capacity compared to traditional companies, institutions, and organizations. They can engage with legal entities but are restricted in their entrepreneurial activities compared to legal entities, generally operating within small-scale production or household services. The economic outcomes of their activities tend to be modest, serving mainly as a personal exercise of the right to entrepreneurship within a market economy.

These entities lack the full range of social protections granted to employees under employment relationships, as their activities are considered independent and risk-based endeavors conducted for profit. Their autonomy and risk-bearing nature grant them the right to independently determine their level of social protection, with no obligation to uphold labor guarantees for themselves. This denotes a misalignment with one of the core purposes of SMEs, specifically the inadequacy in ensuring the right to work in strict adherence to EU-established standards [8].

Secondly, EU regulatory documents stipulate that small and medium-sized enterprises (SMEs) are restricted by a maximum number of employees. Total employment may not exceed 250 persons. For small enterprises, which are a specific subset of SMEs, the number of employees is capped at 50 [9].

Thirdly, there is also a maximum limit on the financial resources that such entities may utilize or accumulate. For medium-sized enterprises, the annual total balance cannot exceed 43 million euros, while small enterprises are limited to an annual balance of 10 million euros [9].

The criteria of employee numbers and financial resources are the most effective for identifying small and medium-sized enterprises. Moreover, the establishment of a numerical employee threshold indicates a broad understanding of the range of economic actors that may fall within this category.

Thus, small and medium-sized enterprises may be defined not as a distinct category of subjects or participants in economic relations but rather as a specific economic and legal regime or status. This regime (status) can be granted to any organizational entity, regardless of whether it holds legal personhood. This status is, in effect, provisional: upon achieving economic results that exceed the established thresholds, the status will be terminated. Furthermore, the potential participants eligible for SME status may include entities not directly involved in commercial activities.

REGARDING THE ALIGNMENT OF SMES WITH ECONOMIC NEEDS

In this study, it is hypothesized that an overly broad approach to defining the legal status of small and medium-sized enterprises (SMEs) may hinder them from achieving their intended economic goals and delivering anticipated outcomes. SMEs, as currently defined, may also be unable to maintain adequate levels of innovation, uphold labor rights, or provide sufficient social protections for workers. This raises the need for further academic research in this area and highlights the relevance of such studies to society.

This assertion is supported by prior research conducted by other scholars. For instance, in the work of D. Markovic, M. Alexis, R. Milevic, and S. Sudic [3], it is argued that the current legal framework for defining SMEs does not fully align with the objectives assigned to this category. The

primary inconsistency identified by these authors is the low effectiveness of criteria such as maximum employee numbers, turnover, and asset value as measures for delimiting SMEs. They contend that these criteria are too vague, allowing large and transnational corporations to qualify as SMEs. Consequently, large businesses can gain access to forms of state support intended exclusively for SMEs under EU law.

To address this inconsistency, the authors propose implementing Integrated Management Standards (IMS) as a regulatory barrier to facilitate a more efficient distribution of state support specifically to SMEs. However, the problem of low efficacy in using employment, annual turnover, and asset value as identification criteria could be approached in alternative ways. For instance, redefining the legal nature of SMEs could allow for additional criteria under EU law, which would prevent large corporations from obtaining targeted state support meant exclusively for SMEs.

These additional requirements could specify how SMEs must be organized, stipulating that SMEs should be established as distinct, independent legal forms. Such requirements would enable EU member states' governments to exercise more effective oversight over the ultimate beneficiaries of state support, preventing large enterprises from accessing resources designated solely for SMEs.

L. Levandovska, based on an analysis of statistical data, compiled a list of economic reasons that hinder the development of small and medium-sized enterprises (SMEs). It was determined that SMEs are effective only when their operations are based on innovation or intellectual property assets. According to Levandovska, SMEs can only achieve optimal efficiency if they conduct commercial production activities grounded in the use of innovative assets or intellectual property rights [4]. The need for commercial activity has been a key criterion in discussions around the redefinition of the legal status of SMEs [7]. Any innovation or technology implemented within business activities must be introduced as a core business asset,

with the aim of establishing continuous economic processes based on it.

Only in such cases can developers of innovations or technology recipients achieve economic results in the form of new products or services. Given the original purpose of introducing legal regulation for SMEs within EU law [3–7], it may be appropriate to add another criterion for defining this type of entity – namely, the requirement to engage in commercial business activities.

In research by K. Alayon, K. Säfsten, and H. Johansson [13], the global experience of SME operation was analyzed, finding a lack of sustainable development among these entities across all countries. The study identified various factors and conditions influencing this. One primary condition affecting SME stability was identified as the diversity of regulatory approaches to defining the legal status of SMEs across different countries, which significantly limits the potential for cross-border state support. The research examined definitions of SMEs across various nations: in developing economies, SMEs are predominantly understood as a distinct category of legal entities. In more economically developed nations, the understanding of SMEs is broader, encompassing all organizational entities, including those without full commercial rights, such as family-owned businesses and individual entrepreneurs. This disparity stems from the limited financial resources available for state support in developing countries, which necessitates more stringent criteria for eligibility.

This pattern suggests that a detailed regulatory approach to the legal status of SMEs increases the effectiveness of government regulation. Thus, in general, a legislative shift toward more specific criteria for qualifying entities or phenomena as SMEs would enhance the effectiveness of state support provided. Consequently, a more detailed regulatory framework for SMEs could improve the effectiveness of government assistance on which they rely.

In the study by J. Guido, L. Micheli, E. Cagno, and A. Calabrese [14], as well as in the research by B. Kurtumulus, A. Katrinli, and V. Warner [15], challenges in safeguarding the right to work wi-

thin the structure of small and medium-sized enterprises (SMEs) are discussed. It was noted that SMEs often struggle to meet the organizational requirements tied to their legal status. A range of organizational and economic reasons was identified as contributing factors. The primary obstacle to upholding the right to work was highlighted as the insufficient legal regulation of SME status and the lack of economic resources to secure the social guarantees for hired employees, which these entities are obliged to provide [8]. A conceptual framework for organizational measures to address these issues was proposed. The inability of SMEs to fully meet all imposed obligations (including those related to labor and social security) highlights a misalignment in the regulatory approach to their legal status. Based on the findings from these researchers, most of the underlying causes are economic, tied to a lack of financial resources at the early stages of SME development. Addressing this issue could be possible by redefining SME status, allowing these entities to anticipate that EU member states might bear some of the organizational costs, such as those related to social security for employees.

In a study by S. Chen, which analyzed statistical data on SME performance, it was determined

that their economic productivity has declined significantly since 2021 due to limited access to rapid banking and financial services. Although Chen proposed a range of managerial and administrative changes, no specific directions were suggested for enhancing the concept of SMEs [16]. This study highlighted the disparity between the organizational obligations imposed on SMEs (compliance with technical regulations, standards, and employee social guarantees) and the financial resources that most of these entities have at the initial stages of development. To address these discrepancies, it was proposed to simplify regulatory access to credit and financial resources. However, the authors argue that such a solution may not guarantee the resolution of the issues presented in the study. A more effective approach would be to grant SMEs a temporary preferential legal status within their specific legal framework, allowing them to avoid overly burdensome organizational obligations.

In the research conducted by C. Pongelli, A. Majocchi, J. Bauertsz, S. Sciascia, M. Caroli, and A. Verbeke [17], the inconsistency between the regulatory framework for family-owned SMEs and business activity requirements was examined. It was found that the specific legal status of these

Systematized Discrepancies between SME Legal Status Regulation and Current Economic Needs within the EU Economic System

Discrepancy	The essence of discrepancy
The low effectiveness of the primary regulatory criteria defining SMEs, such as the number of employees, annual turnover, and total balance sheet value of assets, in identifying them as participants in economic relations	The criteria of employee count, annual turnover, and total balance sheet value of assets are ineffective. Large business representatives, by creating new business entities or artificially segmenting their business, unjustifiably gain SME advantages
An inadequate level of definition (identification) of the purpose of SME operation, specifically the absence of requirements for conducting commercial economic activities within the regulatory criteria for their identification	The absence of regulatory provisions specifying the business outcome that SMEs are expected to achieve
An inadequate level of regulatory identification regarding the list of organizational and legal entities (business entities) eligible to obtain SME status	EU law lacks a unified list of types of legal entities and/or business entities eligible to obtain SME status
A high level of regulatory control and substantial organizational obligations regarding the internal structure of SMEs	Under EU law, SMEs are subject to the same obligations as other business entities that do not hold such status

enterprises often limits their ability to participate in cross-border economic relations. This is primarily due to the varied legal approaches among different countries in recognizing family businesses and defining their operational scope. The study proposed a restructuring of the governance model for family-owned SMEs by introducing a specialized collective management body – board of directors – to better align their operations with international business needs.

In the study by A. Rumanti, A. Rizani, and F. Akhmat [18], it is argued that small and medium-sized enterprises (SMEs) lack resilience against economic challenges within a market economy. Emphasis is placed on SMEs' high potential for integrating innovations and new technologies. The authors propose the establishment of a unified open innovation database, granting SMEs access to enhance their innovative capabilities. However, the study does not address the impact of deficiencies in the current understanding of SMEs on their performance within the economic system.

Further research on improving the legal regulation of startups and innovation investment has also highlighted discrepancies in the current SME framework in terms of supporting innovative investment and startups [19–22].

A systematic analysis of these studies reveals specific misalignments between the legal status of SMEs and the contemporary economic needs within the EU economic system. These misalignments are summarized in Table, which presents the discrepancies between the legal framework governing SMEs and the economic requirements within the EU.

The analysis of the aforementioned research findings and regulatory sources [1–18] indicates a focus on addressing specific aspects or manifestations of the performance of small and medium-sized enterprises (SMEs). This suggests the necessity for research aimed at developing a comprehensive concept for changing the status of SMEs. The proposed changes should ensure a higher level of operational efficiency and contribute to sustainable and stable development. The conclusions

drawn from this research could serve as a foundation for further scientific developments as well as a basis for formulating prospective international and national regulatory acts.

DIRECTIONS FOR IMPROVING THE CONCEPT OF SMES IN EU LAW

The directions for improving the legal regulation of SMEs should be grounded in the identified discrepancies between the normative construction of SMEs and current economic demands. It seems appropriate to combine issues such as the low efficiency of key delineating normative criteria and the inadequate level of regulatory identification of the types of organizational and legal entities that qualify for SME status, as their resolution approaches are closely aligned. The proposed methods for enhancing regulatory frameworks are based on a hypothetical-deductive approach, which postulates that the formulated proposals can address the identified shortcomings of the normative constructs.

The primary approach to resolving the issue of regulatory identification of SMEs involves a shift in understanding their essence and purpose within economic legal relations. Currently, the broad approach to defining the essence of SMEs is identified as a special regime (status) that can be granted to any economic entity [6–11]. This results in an unwarrantedly wide application to a broad range of subjects. Therefore, this approach should be detailed and narrowed down by introducing additional criteria. Given that the existing set of legally established characteristics of SMEs is quite extensive (see Figure 5), further detailing may not yield the anticipated effects of implementation. However, the refinement and narrowing of the concept of SMEs can be achieved by altering the legal nature of their fundamental status.

This can be achieved by introducing a separate special organizational and legal form of a new economic entity within EU law, which can continue to be referred to as small or medium-sized enterprises (SMEs). The concept of this organizational

and legal form serves as a standardized list of generalized management methods for economic activity. It consists of predetermined varieties of business management methods, from which individuals intending to engage in entrepreneurship can select the one that suits them best.

In the countries of the European Union, entrepreneurs do not have the right to be completely free in choosing how their economic entity operates [13]. They can only choose from the options presented to them. One of these options should be a distinct organizational and legal form of small or medium-sized enterprises. Thus, this form would be among those from which an entrepreneur would select their mode of economic functioning.

By adopting a normative approach where SMEs are equated with a specific organizational and legal form of economic entity, the identification of these entities with a special legal status would be ensured. On the other hand, this would allow for more effective accumulation of all means of financial support for their development within clearly defined formal frameworks and procedures. If a separate organizational and legal form for SMEs is implemented, EU countries will be able to apply existing legal mechanisms for state control to prevent representatives of large and transnational businesses from participating in state support systems designated for small businesses.

To ensure that systematic state support for small businesses does not violate the general competition rules within the EU, it is advisable to propose that the organizational and legal form of SMEs have a time-limited character. This means that the right to use this form should be temporally restricted. Such a measure would ensure a level of support for SMEs whereby they receive preferential treatment only at the beginning of their operations. Subsequently, these entities would need to reassess and choose another organizational and legal form for their participation in economic relations.

Conversely, if an SME is identified as a regular (permanent) organizational form in economic relations, ongoing support for it would violate exist-

ing competition policies. By restricting support to newly established SMEs, the verification of compliance with the criteria for receiving support would occur immediately upon their establishment. This would significantly reduce the number of participants in economic relations who imitate or abuse this status. Consequently, it would establish more effective economic and organizational barriers to prevent the fraudulent receipt of economic benefits and preferences.

The issue of the inadequate level of normative definition (identification) of the purpose of functioning of small and medium-sized enterprises (SMEs) can also be addressed by changing the understanding of the essence of this entity from a legal regime to a specific type of organizational and legal form. The application of such a broad approach means that the economic and legal status of a small (medium) enterprise could be granted to any organizational entity, including those that do not engage in commercial activities. Experience in the development of economic relations indicates that not all participants in economic relations contribute to the growth and renewal of the economy. Only those economic entities that engage in commercial activities can ensure such development [1–3].

For this reason, it is advisable to introduce an additional restrictive criterion into the organizational and legal form of SMEs. It is proposed to define an additional feature (element of status and requirement), specifically the commercial nature of their activities. A candidate for the status of a small (medium) enterprise must engage in (or plan to engage in) economic commercial activities, meaning activities that lead to the creation of new social products within the economic system. The application of this restrictive criterion allows for the regulatory impact to be concentrated exclusively on those participants in economic relations that create social products for commercialization (commercial products). Only commercial enterprises pay taxes and fees based on their activities. Most of the financial resources necessary for the state or intergovernmental entities, such as the

European Union, to perform their functions are derived from these taxes and fees. Furthermore, only commercial enterprises can allocate a portion of their profits to ensure the labor rights and guarantees of their employees.

As analysis of the results of innovative SMEs shows, only such participants in economic relations consciously approach the innovative renewal of their production assets and the transfer of technologies [3].

Thus, the general characteristics of SMEs, as presented in Figure 5, should be supplemented and ultimately appear as follows:

- ◆ The status of a legal entity or the status of an individual entrepreneur, artisan, or small family business;
- ◆ Employment of up to 50 employees (for small enterprises) and up to 250 employees (for SMEs);
- ◆ An annual turnover of up to 10 million euros (for small enterprises) and up to 43 million euros (for SMEs);
- ◆ Engagement in productive commercial economic activities.

The proposed concept for understanding the essence of small (medium) enterprises aims to eliminate the issues related to their functioning within the economic system. It represents the author's vision for the development of this subject matter. In its formation, the circumstances surrounding ongoing discussions in academic circles have been taken into account. Overall, the defined concept can be applied both to the official rules governing the activities of SMEs at the level of EU regulations and national legislation and for its further academic development.

The substantiated concept of defining the essence of SMEs and the established characteristics can serve as the foundation for improving the legal regulation of these relations under Ukrainian legislation. Thus, the obtained results can be reflected

in the provisions of the Law of Ukraine on Innovation, which is the main normative document on these issues [23]. The absence of legal regulation for SMEs in Ukraine is already hindering the process of obtaining financial support through the *Horizon Europe* programs. The implementation of the formulated model will not only eliminate these obstacles and ensure the unification of Ukrainian legislation with EU law but also accelerate Ukraine's European integration process.

CONCLUSIONS

1. The research into the development of the concept of small (medium) enterprises has demonstrated that it is constantly being improved.

2. It has been substantiated that, within the current stage of development of the European Union, small (medium) enterprises are understood as a special economic and legal status that can be acquired by any participant in economic relations. The only criteria for differentiation are the maximum number of employed workers and the amount of accumulated financial resources.

3. Directions for improving the concept of small (medium) enterprises have been proposed. The introduction of an additional criterion for acquiring the status of a small (medium) enterprise has been justified. This criterion is proposed to be defined as the conduct of commercial economic activity. The potential capability to address existing economic discrepancies has justified the replacement of the status of a small (medium) enterprise with a special temporary type of organizational and legal form for the economic entity.

4. It has been proven that the developed model for identifying small (medium) enterprises should be implemented within the framework of the current legislation of Ukraine while harmonizing its provisions with EU law.

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О.М. Давидюк¹ (<https://orcid.org/0000-0002-6699-0903>),
Г.М. Шовкопляс² (<http://orcid.org/0000-0003-0313-8606>),
В.О. Усатий² (<https://orcid.org/0009-0004-3325-4530>),
Г.С. Іванова³ (<https://orcid.org/0000-0002-2658-3502>),
О.Ю. Битяк² (<https://orcid.org/0000-0002-4555-4934>),
Т.В. Дуюнова³ (<https://orcid.org/0000-0002-8164-7783>)

¹ Науково-дослідний інститут правового забезпечення інноваційного розвитку НАПрНУ
вул. Чернишевська, 80, Харків, 61002, Україна,
+380 57 700 0663, ndipzir@gmail.com

² Національний юридичний університет імені Ярослава Мудрого,
вул. Григорія Сковороди, 77, Харків, 61024, Україна,
+380 57 757 7293, kancel@nlu.edu.ua

³ Державний біотехнологічний університет,
вул. Алчевських, 44, Харків, 61002, Україна,
+380 68 660 3281, info@btu.kharkiv.ua

ІННОВАЦІЙНІСТЬ ВНЕСЕННЯ ЗМІН У ПРАВОВЕ РЕГУЛЮВАННЯ СТАТУСУ МАЛИХ (СЕРЕДНІХ) ПІДПРИЄМСТВ У ПРАВІ ЄС

Вступ. Малі (середні) підприємства, є ключовими учасниками господарських відносин у Європейському Союзі (ЄС). Через це їх статус постійно вдосконалюється для усунення виявлених проблем їхнього функціонування. На сучасному етапі М(С)П ідентифікуються як особливий економічно-правовий статус, який може отримати будь-який суб'єкт господарювання.

Проблематика. Єдиними критеріями відмежування М(С)П від інших форм господарювання є максимальна кількість працівників, розмір накопичених фінансових ресурсів, рівень річного обороту. Цих критеріїв недостатньо для реалізації ефективних відмежувальних бар'єрів перед великими і середніми компаніями, що намагаються отримати цей пільговий статус.

Мета. Сформувати пропозиції щодо вдосконалення існуючої нормативної концепції визначення М(С)П, що будуть покладені в основу більш ефективного перспективного правового регулювання їх статусу в праві ЄС.

Матеріали й методи. Об'єктом дослідження є нормативна концепція визначення сутності малих (середніх) підприємств. Застосовано формально-логічні методи пізнання та тлумачення змісту наукових, нормативних і економічних категорій та понять, методи моделювання, дедукції, індукції, порівняння.

Результати. Проаналізовано основні етапи розвитку та ефективність нормативної концепції М(С)П у праві ЄС. Сформовано пропозиції щодо покращення інноваційності існуючих засобів правового регулювання М(С)П. Обґрунтовано доцільність впровадження додаткового критерію в статусі М(С)П – здійснення комерційної господарської діяльності. Доведено доцільність заміни статусу М(С)П на особливий тимчасовий тип організаційно-правової форми.

Висновки. Існуюча нормативна концепція М(С)П у праві ЄС потребує вдосконалення. Доцільність упровадження сформованих пропозицій обґрунтовується їхньою здатністю вирішити існуючі проблеми правового регулювання статусу М(С)П.

Ключові слова: малі (середні) підприємства, право на підприємницьку діяльність, право на працю, рамкова програма «Горизонт Європи».