

Report on the European Ombudsman closing Query by the Ombudsman of Mecklenburg-Western Pomerania concerning how Directive (EU) 2018/2002 on energy efficiency has been implemented in German federal law

Decision

Case Q3/2022/MHZ - Opened on 10/10/2022 - Decision on 14/12/2022

Background

1. National and regional ombudsmen in the European Network of Ombudsmen may ask the European Ombudsman for written answers to queries about EU law and its interpretation, for example where questions arise in their handling of specific cases.
2. On 1 September 2022, the ombudsman from the Mecklenburg-Western Pomerania region in Germany submitted such a query to the European Ombudsman. In essence, the query concerns the EU Energy Efficiency Directive [1] as transposed into German federal law.
3. The query is based on a complaint concerning the requirement in the directive [2] to provide billing/heat cost allocator readings to final users, which the complainant argued is costly and not practical.
4. Based on the query, the Ombudsman asked the European Commission to provide its interpretation of the provision in question.

The Commission's reply

5. On 8 November, the Commission replied, stating that a key objective of the Energy Efficiency Directive is to address the frequency with which final users are informed about their actual consumption of thermal energy. [3] Article 11a(1-2) of the Directive define how the issue of the cost of access to metering and billing and consumption information for heating, cooling and domestic hot water should be treated. According to this, Member States should ensure that final users receive appropriate billing or consumption information frequently and guarantee easier access to such information. Furthermore, the information should be free of charge.



6. According to the Directive, the requirement to provide information and ensure easy access to billing and actual consumption of energy to the final user free of charge can be done by paper or electronic means, such as email, but can also be made available via internet (which would include interfaces such as a web portal or smartphone apps) [4] .

7. Merely making information available but leaving it to the final user to retrieve such information by their own means may however not be aligned with the overall objective of this part of the Directive, namely, to raise final users' awareness of their consumption, and make such information easily accessible for them.

8. Continuously 'making available' the information via internet is not necessarily an alternative or sufficient means of complying with the requirements of the Directive. Rather according to the provisions, the final users must be provided with the direct information, free of charge.

9. In addition, the Commission made reference to the following documents, which provide guidance and additional information on the interpretation of these provisions:

(i) Commission Recommendation (EU) 2019/1660¹⁰ on the implementation of the new metering and billing provisions of the Energy Efficiency Directive [5] , which stress the need to facilitate the effective and coherent application of the Directive's provisions on the metering and billing of thermal energy; and

(ii) Commission specific guidance for the sub-metering of thermal energy in multiunit buildings. [6] The general approach of this guidance remains valid, as do many of its recommendations.

The European Ombudsman's conclusion

10. The Ombudsman considers that the issues raised in the query have been adequately clarified. The Ombudsman therefore closes the query.

The ombudsman of Mecklenburg-Western Pomerania and the Commission will be informed of this report.

Rosita Hickey Director of Inquiries

Strasbourg, 14/12/2022

[1] Directive (EU) 2018/2002 of the European Parliament and of the Council of 11 December



2018 amending Directive 2012/27/EU on energy efficiency:

https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2018.328.01.0210.01.ENG
[Link]

[2] Based on Annex VIIa(2) in conjunction with Article 11a(1-2) of the Energy Efficiency Directive.

[3] Commission Impact Assessment, Section 3, p. 26 (SWD(2016) 405 final),
https://eur-lex.europa.eu/resource.html?uri=cellar:56466305-b7f6-11e6-9e3c-01aa75ed71a1.0001.02/DOC_1&form
[Link]

[4] Annex VIIa(2) subparagraph 2.

[5] <https://eur-lex.europa.eu/eli/reco/2019/1660/oj> [Link]

[6] Guidelines on good practice in cost-effective cost allocation and billing of individual consumption of heating, cooling and domestic hot water in multi-apartment and multi-purpose buildings', empirica GmbH — Communication and Technology Research, Simon Robinson, Georg Vogt, December 2016

<https://ec.europa.eu/energy/en/studies/specific-guidance-sub-metering-thermal-energy-multi-unit-buildingsimplemen>
[Link]