

Minutes

of the Meeting of the Legal Affairs Committee of the European Federation of Building Societies

Erfurt, 19 October 2023

Participants:

A. Aitkulova, Kazakhstan	Dr. D. Otterbach, Germany
Z. Anđel, Croatia	J. Pfenning, Belgium
Y. Antonova, Kazakhstan	J. Plško, Slovak Republic
M. Cariboni, Germany	I. Rätzke, Germany
N. Elz, Germany	I. Rauno, Germany
A. Finogenova, Kazakhstan	P. Reiner, Belgium
A. Freise, Germany	J. Riemer, Germany – Chair –
G. Grebler, Germany	B. Rothenburg, Germany
S. Großhauser, Germany	F. Safadi, Germany
A. Guthmann, Germany	Dr. J. Schudrowitz, Germany
Dr. F. Jungkurth, Germany	W. Strau, Austria
A. Kármán, Hungary	Dr. Z. Szendrey, Hungary
R. Kaschel, Hungary	B. Tátrai, Hungary
I. Kleb, Germany	Dr. Z. Tichy, Hungary
C. König, Germany	Dr. F. Trappe, Germany
S. König, Germany	M. Weinrich, Germany
Dr. V. Kreuziger, Germany	
M. Lesemann, Germany	
S. Masuch, Germany	
S. Menzel, Germany	
M. Müller, Germany	
Dr. E. Nagy, Hungary	
S. Neumeister, Germany	

Agenda item No. 1: Welcome and approval of the minutes of the meeting of the Legal Affairs Committee on 28 April 2023

Mr. Jens Riemer, Chair of the EFBS's Legal Affairs Committee, opened the meeting and welcomed the participants who were present in the conference room in Erfurt.

No written requests for amendment of the minutes of the preceding meeting of the Committee had been received, nor were any such requests made at the meeting itself.

Mr. Riemer thereupon stated that the minutes were approved unanimously as submitted.

Mr. Riemer drew attention, as a preliminary point, to an amendment to the agenda. Unfortunately, the guest speaker, Mr Raphaël Lemahieu, had advised prior to the meeting that for scheduling reasons, he was unable to give his presentation on "Open Finance" (Agenda item No. 2) to the EFBS's Legal Affairs Committee on 19 October 2023 as planned. Instead, he would give the presentation during the session of the General Assembly the following day. In lieu of the presentation, a video message from Engin Eroglu, MEP (Renew Europe Group) on "Priorities for ECON until the 2024 European elections" would be broadcast to the meeting.

Agenda item No. 2: "Priorities for ECON until the 2024 European elections"

Mr. Riemer stated that in recent years, European politics has been strongly influenced by crises such as the coronavirus pandemic, the Ukraine war and high inflation. The economic impacts of these crises can also be felt in the work of the European Parliament's Committee on Economic and Monetary Affairs (ECON). As the audience was aware, ECON is responsible for financial markets and banking supervision and covers topics which directly or indirectly affect the Bausparkassen.

The European elections in June 2024 are still some way off. The question, then, is how much progress can still be made on the dossiers of relevance to the Bausparkassen during the current parliamentary term. It would therefore be of interest to hear what Engin Eroglu, MEP, had to report in his video message about ECON's priorities until the 2024 European elections.

The participants took note of Mr. Engin Eroglu's video message, in which he spoke about challenges in the coming parliamentary term. Current legislative initiatives such as the Energy Performance of Buildings Directive (EPBD), the digital euro and the Retail Investment Strategy (RIS) are particular priorities, as is de-bureaucratisation. It is important that the German banking system, with its private banks, "people's banks" (Volksbanken) and savings banks (Sparkassen), maintains its position in Europe. As regards the Energy Performance of Buildings Directive, it must be ensured that the same standards apply in all member states and the emergence of different assessment criteria is avoided. The digital euro is to be welcomed

in principle, but initially only as a standby solution. Mr Eroglu himself would prefer a later introduction at an appropriate point in time.

In relation to the Retail Investment Strategy, Mr. Eroglu made it clear that he was opposed to a ban on inducements. In his view, such a ban would have a highly detrimental effect on sales and hinder the provision of personalised advice. On de-bureaucratisation, he was in favour of a “monitoring committee” to advocate for appropriate streamlining of bureaucracy in relation to money laundering or credit directives, for example.

Mr. Riemer welcomed what were, from the perspective of the Bausparkassen, positive approaches in Mr. Eroglu’s positions and expressed the hope that some of these good approaches would prevail at the European level.

Agenda item No. 3: Energy Performance of Buildings – “New legislative requirements and developments in practice”

Mr. Riemer introduced the topic of energy performance of buildings. In December 2021, the European Commission proposed a revision of the Energy Performance of Buildings Directive (EPBD). The Council agreed its general approach in 2022. The European Parliament adopted its position on the proposal in mid-March 2023, and the initiative is now being discussed in trilogue. However, in some member states across Europe – including Italy and Germany – there is growing criticism of the measures on the renovation of buildings proposed in the directive.

Dr. Schwark, the guest speaker, outlined the legislative frameworks applicable to the energy performance of buildings (**Annex 1**). The new provisions will have practical implications for the building projects financed by Bausparkassen. Dr. Schwark described the implementation of Germany’s Buildings Energy Act (*Gebäudeenergiegesetz*) at the national level, the EU rules on the energy performance of buildings, and model solutions for carbon costs. He also provided practical examples to illustrate the new frameworks.

In future, all newbuilds must obtain 65% of their heating energy from renewable sources. The aim is to phase out the use of fossil fuels in heating systems in buildings by 1 January 2045. Every building will therefore be potentially affected by the new provisions in future. Municipal heat planning has a key role to play here. Currently, a wide range of transitional solutions exist to support the renovation of buildings, and this is generating significant demand for advisory services. Carbon costs are the key entry point for achieving climate neutrality. In this context, Dr. Schwark explained the relevant KfW funding programmes and outlined the subsidy options for renovations.

Mr. Grebler asked how the municipalities are meant to implement the complex rules. This is a particular challenge for the municipalities. Ultimately, every municipality would require experts

in order to put the new rules into practice. The question arising here is whether the municipalities are actually in a position to deal with this themselves and whether the timetable for municipal heat planning can be achieved in this context.

Dr. Schwark made it clear that the timetable for municipal heat planning is ambitious. Other major economic players have only engaged with the topic to a very limited extent thus far as well. It remains to be seen, therefore, whether the targets can be met by obligated parties within the legally stipulated deadlines.

Ms. König pointed out the difficulty of comparing energy performance certificates in Germany. This appears to be even more difficult at the European level. The question, then, is how buildings can be made more comparable in the next five years and which entry points for this exist.

From Dr. Schwark's perspective, the first step is to agree a uniform international standard. There are already comprehensive standardisation requirements that must be met before energy performance certification is issued. The solution is an assessment based on carbon dioxide consumption. The energy efficiency classes do not appear to be a suitable benchmark in the European context due to the existing differences.

Mr. Kaschel assumed that a stand-alone approach at national level is unlikely to be successful without an EU-wide solution. The question, then, is where the greatest challenges will be seen at the national level if new standards from the EU differ from the German standards. Another question is whether conflicts of interest could potentially arise.

Dr. Schwark pointed out that the EU only defines objectives, not specific requirements. From his perspective, the EU's current plans are a viable approach. The aim is to fully decarbonise the building stock by 2045. If these targets are missed, the rules will have to be amended subsequently. This can be achieved, for example, by introducing more stringent construction standards and more pressure to implement rules, and by increasing carbon costs. However, Germany is not a frontrunner here. The Scandinavian countries, Denmark in particular, are already well ahead.

Dr. Kreuziger pointed out that following the "Scholz summit" and the package of measures on housing construction, the stability required for forward planning is lacking. Consumers are uncertain which rules are now expected to apply in practice. If the requirements are unclear, there is a risk that consumers will not react at first. It is also conceivable that the topic will be deferred at the European level.

Ms. König referred to a customer survey conducted in the LBS-Gruppe (LBS Group), which looked at customers' assessments of their building's energy performance. The majority of respondents were unable to answer the question at first. A substantial discrepancy could be observed between the rough estimates provided by the consumers and their buildings' actual

energy performance. Just 15% of respondents ranked their building's energy performance as "very poor". However, in reality, 45% of buildings fall into this category. The question is this: who should break this bad news to consumers?

Dr. Schwark pointed out that an attempt was made to embed the requirements with as much clarity as possible in the Buildings Energy Act. Advice should be provided on the rising energy costs and the bad news should be delivered during that consultation.

Mr. Guthmann referred to the funding schemes described by Dr. Schwark and asked whether consumers can indeed be reached via advisory services. In the past, it was often the case that most of the funding schemes were run down very quickly by professional investors.

Dr. Schwark confirmed that in the past, major clients had run down KfW funding programmes quite rapidly in many cases. However, the financial support schemes are now designed to be less attractive to big business.

Agenda item No. 4: "Heat transition from the perspective of a municipal provider using the example of the city of Erfurt"

Mr. Riemer stated that the municipalities are likely to be assigned a key function in the planned energy transition. As heat suppliers or planners, they will be actively involved in shaping upcoming projects and will be able to progress their implementation. And as owners of public buildings and enterprises, the municipalities have a lead role to play. For local citizens and businesses, the municipalities are a contact point and source of advice on this topic. The Bausparkassen also wish to make a contribution as reliable partners here.

Mr. Zaiß described the heat transition from the perspective of a municipal provider using the example of the city of Erfurt (**Annex 2**). From his perspective, the new national and European rules should be viewed critically. In particular, the European Commission's call for a purely hydrogen-based supply in future, which puts a question mark over the supply from the municipal providers (Stadtwerke), is problematical. The Buildings Energy Act should also be viewed critically, in his opinion.

The required municipal heat planning poses a major challenge for the municipalities. One question which arises concerns the district heating network, for example; specifically, where it should be expanded. In principle, hydrogen can serve as a substitute for natural gas, but this is problematical if hydrogen cannot be imported in the required quantities, potentially leading to energy shortages. The price of hydrogen may be two or three times higher than the price of natural gas.

The municipal provider in Erfurt – Stadtwerke Erfurt – is keen to use deep geothermal and hydrogen as energy sources in this context. Geothermal energy is not dependent on weather

conditions and is available 24/7. In the Central German region, however, the problem is that there is no water at the appropriate depths, only hot rock. A process developed in Canada is suitable for harnessing energy from hot rock. However, the German Federal Ministry for Economic Affairs and Climate Action, as the ministry responsible, rejected a funding application for this “petrothermal” process; funding is only provided for the “hydrothermal” process. Stadtwerke Erfurt is continuing its efforts to lobby for recognition of petrothermal’s eligibility for funding.

Alongside the technical challenges, affordable prices for consumers must be kept in mind during the heat transition. Here, some thought could also be given to the reuse of stored fuel elements from the nuclear power plants. These fuel elements could be repurposed for energy generation in mini-nuclear plants. In addition, a diplomatic approach could potentially restore access to natural gas reserves that are currently only available to a limited extent due to the Ukraine war. Ultimately, a solution which is open to all types of technology should be pursued on this issue.

Agenda item No. 5 Digital Euro – current status

Mr. König described the current status of the digital euro. In June 2023, the European Commission presented its legislative package establishing the legal framework for the introduction of a digital euro. In autumn 2023, the ECB will reach its decision on the possible introduction of the digital euro and the point in time when it would take place. Together with the proposal on the digital euro, the European Commission also put forward a proposal for a regulation on the legal tender of euro banknotes and coins. This states that in principle, cash may no longer be rejected as a payment option, potentially resulting in an obligation for the Bausparkassen to accept cash as well.

Overall, the legislative proposal is viewed critically by the credit industry. Mr. König requested members to share their comments and criticisms with the EFBS so that this feedback can be channelled into the legislative process. The proposal on open finance is also important in this context. In relation to open finance, the European Commission wants every institution to set up technical interfaces for the purpose of data sharing with third parties. There is a risk here that major corporations – not necessarily banks (e.g. Facebook, Google or Amazon) – could entice customers away from the Bausparkassen. This is a risk which should not be underestimated in relation to the digital euro.

Agenda item No. 6: Retail Investment Strategy – current status

Ms. Freise gave a presentation on the current status of the Retail Investment Strategy (**Annex 3**). The topic had previously been raised at the last EFBS Spring Meeting. In essence, it concerns two legislative proposals from May 2023: a regulation amending the PRIIPs

Regulation, and an omnibus directive. The proposals cover retail and insurance-based investment products. Bauspar contracts are currently unaffected by the proposed legislation, but there is a risk that once rules are introduced, they could be extended to Bauspar contracts as well.

According to the Commission and the “Retail Investment Strategy” that it is pursuing, the percentage of European household assets held in financial securities is low, unlike the situation in the US. Problems exist due to, among other things, (1) information deficiencies, (2) misleading marketing, (3) unjustifiably high costs of retail investment products and (4) potential conflicts of interest caused by payment of inducements for intermediaries (commissions, etc.).

With the legislative proposals, the Commission aims to improve the general conditions in the areas mentioned. However, it has refrained from proposing a full ban on inducements and is merely proposing a partial ban. New requirements relating to financial advice will also be introduced, with intermediaries to base their advice on a broad range of products. Value for money (cost/performance of products) will be monitored by the European Supervisory Authorities (ESMA/EIOPA) and benchmarks will be developed specifying the requirements to be met before products are offered on the market. Protection against misleading marketing will be strengthened. A revision clause in the legislative proposal states that the rules will be evaluated after three years and amended if necessary. The evaluation could thus result in more stringent measures, up to and including a full ban on inducements.

The European Parliament’s draft report by rapporteur Stéphanie Yon-Courtin is now also available. She rejects both a full and a partial ban on inducements. In her view, further requirements relating to the provision of financial advice are not expedient. The proposed value for money assessment and the introduction of benchmarks are not the right approach. In Ms Yon-Courtin’s view, benchmarks would reduce diversity of products and suppress innovation and should therefore be rejected. She is, however, in favour of stronger rules on “finfluencers”. An evaluation of the provisions should be conducted after five years, not three years, under the revision clause.

An ECON vote is likely at the end of January 2024. Due to the European elections in June 2024, it is uncertain when trilogue negotiations might start.

Agenda item No. 7: Miscellaneous

There were no requests for leave to speak under the “Miscellaneous” agenda item.

Mr. Riemer thanked the participants for their lively participation in the discussions as well as the speakers for their contributions. He closed the meeting with his particular thanks to the interpreters.
