

EUROPEAN SME DEFINITION EXCLUDES MUNICIPAL UTILITIES

BDEW CALLS FOR AN END TO DISCRIMINATION

„Europe’s 25 million small and medium enterprises (SMEs) are the backbone of the EU economy“,
states the EU Commission in
its SME-Strategiy 2020



European Commission: When does an enterprise qualify as an SME?

The EU Commission acknowledges the **relevance of SMEs** (e.g. in the "Small Business Act"), but simultaneously excludes a significant portion of SMEs active in the energy and water sectors: municipal utilities (*Stadtwerke*). According to the EU SME definition (2003/361/EC), companies with a public share **exceeding 25% are not considered SMEs**, even if they **meet the further criteria:**

- Number of employees < 250
- Annual turnover < 50 million euros or balance sheet total < 43 million euros



As a result, **93%** of SMEs represented by BDEW (German Association of Energy and Water Industries), approximately **1,160 companies**, do not qualify as SMEs according to the EU Commission.

BDEW therefore calls for an adjustment of the SME definition

The criteria of the number of employees, annual turnover/balance sheet total, and the exclusion of affiliated enterprises/partner enterprises are suitable and sufficient for a functioning SME definition. Therefore, **BDEW demands the removal of Article 3, Paragraph 4 of the Annex to Commission Recommendation 2003/361/EC (criterion of public share).**

This creates **an inclusive and balanced SME definition** that sensibly encompasses all small and medium-sized enterprises.

Discrimination instead of facilitation

The legislative framework (EU and national) supports SMEs with burden relief and incentives. However, the 25% rule results in disproportionate additional effort for municipal utilities, as the reduction of administrative burden does not apply to municipal energy supply companies. At the same time, municipal energy supply companies are excluded from a multitude of funding and financing measures.

Small and medium-sized municipal utilities must provide an additional effort in terms of time and resources that is disproportionate to the size of their companies. This represents a significant disadvantage for municipal energy providers in the competitive environment. At the same time, they are hindered in the implementation of the energy transition.

Practical examples of impeding the energy transition and Exclusion from funding measures

§ 22b EEG (*Renewable Energy Act*):
Exception from the obligation to
tender for citizen energy cooperatives

Just Transition Fund supports in
particular SMEs affected by
transition towards climate neutrality

Exclusion of SMEs as voting
members of energy cooperatives
by referring to the SME definition

Exclusion of municipal SMEs from
funding by referring to the EU SME
definition

Exclusion of municipal utilities as
experts for the regional energy
transition

No funds for municipal SMEs to
actively shape the transformation

Clearing up misunderstandings

Municipal SMEs...

- do not have significant advantages in competition, especially when it comes to dealing with additional administrative burdens.
- bear the same administrative burdens as purely private enterprises.
- do not have easier access to financial resources. Ultimately, a government entity is subject to EU state aid rules and, in this context, must not be granted unjustified advantages.
- should not be equated with partner companies or affiliated enterprises.

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