The EU framework on energy communities

How to ensure energy communities can contribute to a fairer energy system

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Abstract

This policy brief gives a brief overview of political and regulatory context at European level for the development of energy communities, focusing on their social role. The brief shows that while regulation of energy communities is still in its infancy, it is benefitting from a good political dynamic pushed by the EU. Nevertheless, the social obligations ascribed to energy communities as non-traditional market players are not being matched with the level of support needed to meet such expectations. The policy thus also offers several recommendations for EU policymakers, to continue to help energy communities thrive and realise their potential to reduce energy poverty and make the energy system more fair.

Disclaimer: This policy brief is based on the previous publication "Report on the political and regulatory context for the development of energy communities at EU, national and local levels", written by Klervi Kerneïs and Camille Defard (Jacques Delors Institute) as part of the EU Horizon 2020 project Sun4All. This policy brief is the first of a three part series analysing and offering recommendations at the EU, national and local levels respectively.

1. Introduction

The energy transition calls for a deep transformation of our energy system, from fossil-fuels dominated supply to renewables. While already well-underway, with over 20% of EU energy coming from renewable sources,[1] putting the EU on the path to climate neutrality by 2050 requires at least doubling this share by 2030.[2] Meanwhile, the social acceptability of the transition has become a major concern over the last few years, with more and more debates around who benefits and who pays the cost of this transition.

Energy communities, through which citizens can jointly own, democratically control, and self-consume local energy, are increasingly emerging as an opportunity to shift toward a more decentralised, renewable-based energy production system and to build a new, more inclusive energy system in which fair access to energy is guaranteed. Since 2018, the EU has been driving the energy community movement on the continent: the Clean energy for all Europeans package introduced the concepts of *renewable energy communities* (RECs) and *citizen energy communities* (CECs) in the EU legislation.[3] The EU legislation explicitly recognises energy communities as purpose-driven actors, taking on additional environmental and social responsibilities. But without sufficient public support and an appropriate enabling environment, energy communities might not be able to fully realise their potential to improve social cohesion at the local level, foster inclusiveness and reduce energy poverty.

In this policy brief, we take a look at the current European framework on energy communities and examine in more detail to which extent it supports these communities as new market players with broader social objectives. Building on our analysis, we offer some EU-level policy recommendations.

[1] 21.8% in 2021. Source: Eurostat (2023). Share of energy from renewable sources.

[2] European Commission (2023). European Green Deal: EU agrees stronger legislation to accelerate the rollout of renewable energy. *Press release*, 30 March.

[3] RECs were introduced by the directive on promotion of the use of energy from renewable sources (REDII) and CECs through the directive on common rules for the internal market (EMD). RECs are considered a type of CECs operating on renewable-energy-based heating and electricity, and possess some specific characteristics (see Annex 1).

2. The EU framework on energy communities: a good political dynamic still in its infancy

2.1. Introduction in EU law that still needs proper implementation at national level

The introduction of energy communities in EU law, a new social actor in the electricity system

The purpose of RECs and CECs is to create a legal status for a new type of energy market actors that operate more locally and beyond profit-making. Both types of communities represent a way to organise the production, consumption, storage, sharing and selling of energy[4] in a decentralised way. However, contrary to traditional energy actors, energy communities are subject to some restrictions regarding who can participate and make decisions,[5] and are explicitly asked to "*provide environmental, economic, or social community benefits rather than financial profits*".[6]

Such legal recognition is theoretically enabling energy communities to participate and compete in the energy market on a level playing field. According to the European rules, RECs and CECs should be able to access all suitable energy markets and be subject to the relevant network charges and taxes in a non-discriminatory manner.

But in practice, **integrating energy communities in a liberalised market-setting as new players with additional responsibilities is bound to create tension**.[7] To support their market integration and help with the actual implementation process at national level, the EU is therefore requiring Member states to **establish dedicated enabling frameworks** that fully consider energy communities' wider goals and specific needs.

Energy communities still lack proper implementation at the national level

The capacity and willingness of Member states to establish a supportive framework for energy communities will make or break the energy community movement in the EU. Concretely, the EU instructed Member states to establish instruments to make access to finance and information easier, design customised support schemes for RECs, assess and remove unjustified barriers, and provide regulatory and capacity-building support to public authorities to set up or

[4] They may offer other services like energy efficiency services and charging for electric vehicles.

[5] For example, medium and large enterprises can participate in a CEC but are excluded from effective control. RECs impose even stricter requirements since they exclude large companies altogether and their shareholders need to live near the energy community project.

[6] European Parliament and Council. (2018). Directive of 11 December 2018 on the promotion of the use of energy from renewable sources (recast). *Official Journal of the European Union*, December. & European Parliament and Council (2019). Directive of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU (recast). *Official Journal of the EU*, June.

[7] Swens, J. and Diesterlmeier, L. (2022). Developing a legal framework for energy communities beyond energy law. In Löbbe S., et al. (Eds), Energy Communities: Customer-centered, market-driven, welfare-enhancing? (pp59-71). *Academic Press*.

participate directly in RECs.[8] Member states need to include their enabling frameworks for RECs in their National Energy and Climate Plans (NECPs).[9]

For now, the transposition of these key pieces of legislation varies greatly across Member states. No country has yet aligned comprehensively with the EU legislation regarding the definitions of CECs and RECs, and, even less, to establish the appropriate enabling frameworks.[10] Many national laws transposing EU rules provide too few details and clarifications beyond the EU provisions – a sort of "copy pasting" – which can create uncertainty for existing and future energy communities and could thus hinder their development. In several cases, national governments have already amended their legislation, sometimes several times, to overcome these shortcomings. Member states are therefore in the 'exploration phase' of energy communities' regulation, with a strong need for assessment, monitoring and likely fine-tuning of the policies in place.

2.2. Mixed new legislative developments at EU level that should overall boost the energy community movement

Recent legislative developments at EU level as part of the Fitfor55 package and the RePowerEU plan strengthen EU's commitment to promote smaller decentralised and citizen-led energy production systems. The acceleration of permitting for renewable projects and the mainstreaming of solar energy installations on buildings[11] could be a game changer for RECs working with solar panels. The EU Solar Strategy, while not legally binding, also introduces an indicative target to set up renewable energy communities in all municipalities of 10,000 inhabitants and above. Under the new strategy, the EU also announced new earmarked funding under the LIFE programme, the Energy Communities Facility, although details on the scope, timeframe or eligibility criteria still need to be specified.[12]

At the same time, the new EU gas market rules are raising major concerns of citizen-washing. The new rules would allow CECs to operate on the renewable gas market, when this should fall into the scope of RECs. Because CECs have less strict governance requirements, big players could take advantage of the CEC framework to the detriment of citizens as well as more local or smaller stakeholders, leading to abuse or citizen-washing. CECs acting as distribution system operators would also be allowed to transport non-renewable gas to non-CEC members or "*where such gas is necessary for secure system operation*".[13]

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[8] See REDII (Article 22) and EMD (Article 16).

[9] Only for RECs since their enabling framework is more comprehensive due to stricter governance and participation requirements compared to CECs. Source: Hannoset, A. (2022), Local solutions to the energy crisis: empowering through renewable energy communities [Video]. *EUSEW 2022*. September.

[10] REScoop, Transposition tracker.

[11] European Commission (2022a). Proposal for a directive amending Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources, Directive 2010/31/EU on the energy performance of buildings and Directive 2012/27/EU on energy efficiency. COM(2022) 222 final, May.

[12] Annex: Key actions to implement the EU Solar Energy Strategy in: European Commission (2022b). Communication: EU Solar Energy Strategy. COM(2022) 221 final, 18 May.

[13] European Commission (2021). Proposal for a directive on common rules for the internal markets in renewable and natural gases and in hydrogen. COM(2021) 803 final. 15 December.

The new EU state aid rules are also making it easier for energy communities to access funding at national level. Under the EU's new guidelines on state aid for climate, environmental protection and energy (CEAAG), Member states are allowed to exempt RECs (under certain conditions[14]) from mandatory competitive bidding processes and/or to design special tenders for unique market players like energy communities. Member states may also include non-price based criteria to account for the social or democratic benefits that a project, like an energy community, might bring. Lastly, the new rules provide more flexibility to combine investment aid and operational aid, which is crucial to help energy communities not just emerge, but also thrive and attract investors.[15]

2.3. Beyond legislation, the EU is providing financial and technical support to energy communities

In theory, there are many EU funds for which energy communities could be eligible, but whether energy communities will truly be able to access them remains unsure. In practice, few Member states have used EU funds to design dedicated support schemes for energy communities.[16] Because of the many competing priorities in the energy climate field and the lack of human resources and expertise within energy communities to respond to calls, the absence of earmarking of EU funds at national level toward energy communities is a real obstacle.

When dedicated funding exists, it is often too small compared to the potential that energy communities have to unlock private capital and general local revenue.[17] A pan-European survey showed that a potential of at least €176 billion could be harnessed from European citizens willing to co-finance community-administered wind energy cooperatives.[18]

Alongside financial support, access to technical assistance is crucial for energy communities. At the EU level, this is already done through the Energy Community Repository, the Rural Energy Community Advisory Hub and new initiatives like Citizen-Led Renovation (targeting directly energy communities), but also through the European Energy Poverty Advisory Hub and the EU Technical Support Instrument (respectively targeting local and national governments).[19]

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[14] RECs with an installed capacity or maximum demand of 6MW (18MW for wind generation projects).

[15] REScoop (2022). How can the CEEAG help energy communities address the energy crisis?, December.

[16] Climate Action Network Europe (2023). Sunny Shorts: Funding the energy community movement in Europe, *Blog post*,12 June. Based on: REScoop (2023). Leveraging European Public Funds to Support Energy Communities, *Policy Paper*, 5 May.

[17] Climate Action Network Europe (2023). Op. cit.

[18] Simultaneously considering solar could lead to double counting. In addition, introducing current RE subsidy schemes in the simulation procedure would result in a 27% increase on the estimated social potential and reach a total volume of €224 billion. Source: Pons-Seres de Brauwer, C. & Cohen, J.J. (2020). Analysing the potential of citizen-financed community renewable energy to drive Europe's low-carbon energy transition. *Renewable & Sustainable Energy Reviews*, 113.

[19] More information available in the full report: Kerneïs K. & Defard C. (2023). "A comparative analysis of the regulatory framework in Sun4All pilot cities", *Sun4All*, 23 May.

3. The social contribution of energy communities: largely underutilised due to insufficient support

Energy communities have the potential to strengthen social cohesion by creating value at local and regional level, providing more affordable and stable prices to consumers, and redistributing some of their profits to the most vulnerable in their local community.[20,21] Additionally, community energy projects generate two to eight times more local revenue than a project carried out by an external actor, since they are more likely to distribute their profits locally than large private initiatives.[22] There are many examples of energy communities in the EU that are fulfilling such potential and actively trying to reduce energy poverty at their level. The Sun4All project is one of them, as it directly targets vulnerable groups.

Yet energy communities still struggle to reach vulnerable groups, which limits their social impact. Members of energy communities are generally homeowners with high enough income levels to afford the membership fees and investments in energy efficiency.[23] This is likely linked to the fact that only about a quarter of energy communities offer lower membership fees and that being a member of an energy community does not systematically result in lower energy prices compared to market prices.[24] In addition, these groups might be less familiar with energy communities overall. Reaching out to vulnerable groups thus requires considerable time and human resources, which energy communities are either lacking or prioritising for their core activities.[25]

Redistributing profits to energy-poor households outside the energy community remains limited. Only 18% of energy communities report engaging in such activities.[26] Several factors are crucial in this regard. First, the size of the energy community matters. The more members – and thus, the more financial and human resources – the more likely it is to address vulnerable groups.[27] Second, cooperation with local authorities and non-profit organisations seems instrumental, in particular to identify and reach out to these groups. Third, the level of awareness is also important. The lack of understanding among the energy community members in regards to the needs and living situations of vulnerable groups is likely to lead to the reproduction of current biases and injustices.[28]

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[20] Community Energy for Energy Solidarity (CEES) (2023). Are renewable energy communities a vehicle to mitigate the energy crisis and lift people out of energy poverty?, *Briefing,* March.

[21] Examples of local benefits from concrete citizen energy projects: Énergie Partagée (2019). Les retombées économiques locales des projets citoyens d'énergie renouvelable. 10 December. [French]

[22] REScoop (2023). The social impact of energy communities: ten benefits they bring. 19 May.

[23] Arnauld, J. & Quiroz, D. (2022) Energy communities in the EU - Fulfilling consumer rights and protections, *Profundo*, December.

[24] Hanke, F., et al. (2021). Do renewable energy communities deliver energy justice? Exploring insights from 71 European cases. Energy Research & Social Science, 80(102244), October.

[25] Ibid.

[26] Ibid.

[27] Hanke, F. & Guyet, R. (2023). The struggle of energy communities to enhance energy justice: insights from 113 German cases. *Energy, Sustainability and Society,* 13, 16 (2023).

[28] Hanke, F., et al. (2021). Op. Cit.

The EU is clearly hailing energy communities as social actors, but their role should be better defined. As mentioned earlier, the purpose of both CECs and RECs should be to provide social and environmental benefits beyond profit. The EU legislation also specifically requires Member states to ensure that RECs are accessible to all consumers, including those in low-income or vulnerable households.[29] However, 'providing social community benefits' could be interpreted in many different ways beyond member diversity. Although not legally binding in any way, recitals can sometimes offer guidance or clarification of certain provisions from a legal text. In this case, recitals in the EMD and REDII seem to assign a long list of social roles to energy communities, from providing affordable energy to fighting energy poverty, lowering energy consumption and increasing the acceptability of renewable energy projects.

To fulfil such a social role, energy communities need to be adequately supported. Energy communities are in dire need of more financial and human resources to be able to offer lower participation fees and engage in energy justice activities.[30] In addition, energy communities that spend time and resources to reach vulnerable households without gaining anything from it are at a constant disadvantage compared to other market actors that are not expected to fulfil such responsibilities.[31] To address this, the EU is requiring Member states to implement an enabling framework for energy communities. However, for now, very few countries have actually taken the appropriate measures in this regard.[32] One of several exceptions is Italy, which integrates social criteria in tenders for energy communities.[33] And, while we have seen that several EU funds could in theory be used to support energy communities, there are currently no EU funding opportunities targeted exclusively for energy communities and/or for energy communities that actively contribute to energy justice.

Importantly, the role of energy communities to empower vulnerable consumers to participate in a liberalised energy market and help reduce energy poverty at the household level should not be overstated.[34] There is first of all a risk to overload energy communities with responsibilities and to exploit volunteer labour.[35] There are also concerns that issues of inclusiveness, citizen participation and poverty reduction could be seen as individual- or household-level issues and that the role and support given to energy communities on these matters could be used as an excuse for state withdrawal or disengagement. It should therefore be made clear that this in no way replaces structural efforts and policies from European, national and local policy makers to tackle (energy) poverty and to democratise the energy sector.[36]

[29] REDII (Article 22)
[30] Hanke, F., et al. (2021). Op. Cit.
[31] Hanke, F. & Guyet, R. (2023). Op. Cit.
[32] REScoop, Transposition tracker: enabling frameworks and support schemes.
[33] REScoop (2023). Op. Cit.
[34] Kerneïs K. & Defard C. (2023). Op. Cit.
[35] Debourdeau, A. et al. (2022). PESTEL Analysis of the EU Context, *EnergyPROSPECTS*, n°101022492
[36] Kerneïs K. & Defard C. (2023). Op. Cit.

4. Recommendations to help energy communities thrive and fulfil their social role

To further help the development of energy communities, the European institutions, should:

Legislation

- Pursue its current efforts to include energy community-specific provisions in its legislation (EED, RED, EPBD, state aid framework, EU technical support etc.) *[European Commission, European Parliament, Council].*

Implementation

- Ensure that Member states implement the provisions on RECs and CECs and provide them with a comprehensive enabling framework in line with EU rules *[European Commission]*.

Financing

- Set up the Energy Communities Facility as soon as possible and specify beforehand the scope and criteria linked to the Facility in order to give potential beneficiaries enough visibility and time to prepare their application *[European Commission]*.

- Encourage Member states to use the RePowerEU chapter in their Recovery and Resilience Plans (NRRPs)[37] to earmark and/or increase funding for the development and operation of energy communities, following Poland's example[38] *[European Commission]*.

- Make concrete recommendations regarding energy communities when assessing Member States' draft revised National Energy and Climate Plans (NECPs)[39] *[European Commission]*.

Technical assistance

- Continue to provide technical assistance to energy communities (e.g. on how to access EU funds) and more generally ensure that funding cycles for EU funds are communicated in advance *[European Commission]*.

- Encourage Member states to set up dedicated one-stop-shops for energy communities, e.g. to help them access available funding programmes *[all]*.

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[37] Member states were asked to submit their revised NRRP preferably by the beginning of July 2023. Source: European Parliament and Council (2023). Regulation as regards REPowerEU chapters in recovery and resilience plans, *Official journal of the EU*, 5 May.

[38] Poland's draft new RePowerEU Chapter foresees a doubling in funds allocated to energy communities (additional EUR 91.5 million) and the number of energy communities and clusters supported in the investment part is increased from 10 to 60. Source: REScoop (2023). Op. Cit.

[39] Member states were expected to submit their draft updated NECPs to the Commission by 30 June 2023. As of 8 September 2023, only 15 Member states had submitted their plan. The revision will run until June 2024, when Member states will have to submit their final plan.

To support energy communities in fulfilling their social role, the EU should additionally:

Legislation

- Clarify in its legislation the social role of energy communities as new actors in the fight against energy poverty and as a solution to redistribute profits of the energy system within the local community. *[European Commission, European Parliament, Council]*.

- Introduce green public procurement rules to facilitate the involvement of municipalities in energy community projects *[European Commission, European Parliament, Council]*.

- Require Member states to identify the barriers that energy communities face to reach vulnerable groups *[European Commission, European Parliament, Council]*.

Implementation

- Ensure that Member states report on how they plan to support the social contribution of energy communities in their NECPs, especially considering the ongoing review of the plans *[European Commission]*.

- Encourage Member states to adapt their enabling framework on energy communities so that energy communities are supported and incentivized to engage in energy justice activities or fulfil social criteria *[all]*.
    - e.g. by reducing membership fees for vulnerable groups, redistributing profits/energy within and outside of the energy communities to vulnerable groups or to social projects, collaborating with social housing providers or local social services, etc.

Funding

- Condition any future dedicated funding to energy communities, in particular the Energy Communities Facility, to the redistribution of social and local benefits according to a set of criteria *[European Commission, European Parliament, Council]*.
    - e.g. number of low-income households involved, number of local businesses and/or associations involved, share of profits or energy savings distributed within the local community, etc.

- Encourage Member states to design funding programmes targeting energy communities specifically, and whose scope reflects the EU ambitions laid down in the EU Solar Strategy *[all]*.

- Promote the allocation of EU funds to municipal staff involved in fostering the participation of vulnerable households in energy communities *[all]*.

- Offer Member states some guidance to develop calls for tenders for energy communities, which include a list of social criteria *[European Commission]*.

5. Conclusion

To sum up, the European Union is creating a momentum for Member states to take ownership of the concept of energy communities, but there is still some room to better support energy communities in fulfilling their overarching goals of territorial cohesion and energy poverty alleviation. It is now up to the Member states to provide legal certainty and an enabling environment for projects on the ground, beginning with updating their own legislation, clarifying and simplifying procedures, providing tailored funding opportunities, etc. Stronger EU reporting requirements, increased funding, regulatory obligations, and technical assistance could support Member states in that respect. However, lack of progress on their part will negatively affect the energy community movement in the EU and close many windows not only for citizens, but also for municipalities eager to play their role in a more decentralised energy sector.

Annex

Shared features and differences between RECs and CECs

	Both CECs and RECs	Specific to CECs	Specific to RECs
Type of entity	Legal entity		
Activities	Generation/production, consumption, sharing, storage, sale, distribution, and aggregation	Engage in energy efficiency services or charging services for electric vehicles or to provide other energy services to members or shareholders	
Purpose	Providing environmental, economic, or social community benefits rather than financial profits		
Energy sources		Electricity from renewable and non-renewable sources	Renewable-based heating and electricity
Participation	Voluntary and open participation	Any entity	Natural persons, SMEs or local authorities, including municipalities For private undertakings, their participation must not constitute their primary commercial or professional activity.
Governance	Effectively controlled by members or shareholders	Effective control allowed for: natural persons, small enterprises, local authorities, including municipalities	Same eligibility for effective control than for participation: natural persons, SMEs or local authorities, including municipalities Requirement of proximity (see 'Geographical scope') Requirement of autonomy
Geographical scope		No geographical limit	Shareholders and members with effective control must be located in the proximity of the renewable energy projects that are owned and developed by that legal entity

Source: Kerneïs K. & Defard C. (2023). "A comparative analysis of the regulatory framework in Sun4All pilot cities", *Sun4All*, Horizon 2020 project no. 101032239.May.