



# Report on the European legal and regulatory environment for energy communities and energy poverty

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## Executive Summary

**The Community Energy for Energy Solidarity (CEES) project brings together six examples of community energy initiatives with the express aim of expanding existing practices designed to alleviate energy poverty and evaluating their effectiveness. The success of most of the mechanisms implemented by the CEES partners is impacted by national institutional and regulatory environments. An important component of this project is therefore to understand those environments.**

This deliverable (4.1) aims to provide an overview of existing legislation and policy initiatives on energy poverty and energy communities, at the EU and national level for CEES pilot countries: Croatia, France, Portugal, and the UK. It sets the background against which the CEES pilot partners have created their respective energy solidarity mechanisms and will explore new activities in the context of the CEES project. It contains two sections:

Section 4 gives an overview of the European legal framework on energy poverty and energy communities, from their first mentions in EU law to current negotiations in the framework of the Fit for 55 Package and REPowerEU.



Section 5 will focus on the implementation of provisions on energy communities and energy poverty in the Clean Energy Package at the national level for CEES pilot countries. Two CEES partner projects are situated in the UK; as the UK is no longer obliged to transpose EU legislation into national law, no formal analysis of their legal framework was carried out.

Both sections conclude with recommendations for EU and national policymakers. While progress is being made at the European level, none of the EU Member States has reached a state of maturity when it comes to addressing RECs and energy poverty together. At all levels, extra efforts will be needed to eliminate barriers between social and energy policy. This is perhaps the biggest challenge to effectively spark a just energy future.



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## Abbreviations

<b>CEC</b>	Citizen Energy Community
<b>CEES</b>	Community Energy for Energy Solidarity
<b>CEP</b>	Clean Energy Package
<b>CSO</b>	Civil Society Organisation
<b>EED</b>	Energy Efficiency Directive under the CEP
<b>EPBD</b>	Energy Performance of Buildings Directive under the CEP
<b>EPAH</b>	Energy Poverty Advisory Hub
<b>EPOV</b>	Energy Poverty Observatory
<b>ETS 2</b>	ETS extension to Buildings and Transport
<b>EU</b>	European Union
<b>GHG</b>	Greenhouse gas
<b>IEMD</b>	Internal Market for Electricity Directive under the CEP
<b>LTRS</b>	Long Term Renovation Strategy
<b>MEPS</b>	Minimum Energy Performance Standard
<b>NECP</b>	National Energy and Climate Plan
<b>PPA</b>	Power Purchase Agreement
<b>PV</b>	Photovoltaics
<b>REC</b>	Renewable Energy Community
<b>RED II</b>	Renewable Energy Directive under the CEP
<b>SCF</b>	Social Climate Fund
<b>UK</b>	United Kingdom



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## 1. Introduction

In recent years, calls for creating energy systems that work for all citizens have grown louder. Acknowledgment is growing of the interconnection between issues of social justice and our energy system. And, at different policy levels, initiatives for addressing issues of energy justice have multiplied, with Sustainable Development Goal number 7 (affordable and clean energy) and the EU pillar of Social Rights principle 20 (access to essential services), being some of the most notable examples.

Energy poverty became an explicit policy priority in the European Green Deal. Commonly understood to be caused by low incomes, poor thermal efficiency of dwellings, and high costs of housing end energy, this issue is nevertheless not easily captured or translated into concrete strategies for alleviation. A multidimensional issue with very specific struggles, it should be clear that citizen empowerment and citizen participation in the energy system and energy policy design will be crucial to identify and address it.

With the entry into force of the Clean Energy Package (CEP) in 2018, EU legislation acknowledged energy communities, and citizens in general, for the first time as active participants in the energy system. Member States now have a legal requirement to create enabling conditions to support community energy in their countries. Significantly, they must also ensure that energy communities are accessible to low-income and vulnerable households. Provisions on Renewable Energy Communities (RECs) in particular highlight the importance of participation of vulnerable and low-income households

as they can help “fight energy poverty through reduced consumption and lower supply tariffs.”<sup>1</sup>

To date, the implementation process of the CEP at the national level has been slow; however, energy communities all across Europe have been investigating different ways to organise local energy systems, based on principles such as democratisation, equitability, sustainability, and fairness.

The CEES project brings together six examples of community energy initiatives with the express aim of expanding existing practices designed to alleviate energy poverty and evaluating their effectiveness. Some CEES partners have years of experience in this regard; others are relatively new energy communities that now want to take action to identify who in their community is affected; understand how to engage with people affected and with other actors; take concrete action (e.g. hard or soft measures) to alleviate energy poverty; understand the necessary support mechanisms (e.g. regulatory frameworks and financial schemes) and measure the impacts of such actions.

The community energy partners in the CEES project are:

- **ALLenergy** - United Kingdom
- **Coopérnico** - Portugal
- **Enercoop/Énergie Solidaire** - France
- **Les 7 Vents** - France
- **Repowering London** – United Kingdom
- **ZEZ** - Croatia

<sup>1</sup> Directive (EU) 2018/2001, Recital 67



## 2. Objectives and Structure

The CEES project aims to identify and analyse ongoing energy poverty alleviation practices developed by energy communities across Europe. In particular, the project will focus on validating academically and empirically each of these practices and identify levers to overcome regulatory and financial barriers.

Ultimately, CEES aims to create a toolkit that will enable other energy communities present in the REScoop.eu network to replicate these practices in their respective contexts. A formula which has proven itself in the past.

This deliverable (4.1) aims to provide an overview of existing legislation and policy initiatives on energy poverty and energy communities, at the EU and national level for CEES pilot countries. It sets the background against which the CEES pilot partners have created their respective

energy solidarity mechanisms and will explore new activities in the context of the CEES project. It contains two sections:

Section 4 gives an overview of the European legal framework on energy poverty and energy communities, from their first mentions in EU law to current negotiations in the framework of the Fit for 55 Package and REPowerEU.

Section 5 will focus on the implementation of provisions on energy communities and energy poverty in the Clean Energy Package at the national level for CEES pilot countries: Croatia, France and Portugal. Two CEES partner projects are situated in the UK; as the UK is no longer obliged to transpose EU legislation into national law, no formal analysis of their legal framework was carried out.

Both sections conclude with recommendations for EU and national policy makers.



### 3. Methodology

The overview of the European and national legal frameworks on energy poverty and energy communities is primarily built on documentary research of European and national legislation. This is done with the help of the advocacy working group of REScoop.eu and experts on the transposition of the CEP into national law for CEES pilot countries.

The recommendations for European policy makers are based on review of both the legal framework in the context of this

deliverable and position papers written by REScoop.eu, used for lobbying purposes in the ongoing negotiations around the Fit for 55 Package.

The recommendations for national policy makers are based on lessons learned from the analysis of the transposition of the CEP into national law. Experts and national stakeholders gave some additional insights on what is needed to achieve a successful implementation.



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## 4. Overview of the European legal framework on energy poverty and energy communities

While the principle of subsidiarity leaves Member States with more power to act on energy poverty, the EU's competence in the area has also grown. This has allowed for the creation of a variety of tools and policy initiatives at the EU level to support and stimulate national and local actions toward citizen empowerment and energy poverty alleviation.<sup>2</sup> After a brief overview of the EU legislative framework on energy poverty and energy communities since its first references in EU law, this section introduces relevant provisions on energy communities and energy poverty in the CEP. It will specifically focus on where these two topics have become aligned (i.e. where energy communities have been recognised for their potential to alleviate energy poverty). An overview of currently ongoing legislative processes within the context of the Fit for 55 Package and the REPowerEU Plan will be also presented and assessed, as it will set the direction EU and national action on energy poverty are likely to take in the coming years. Finally, some concrete recommendations for EU policymakers are offered.

### 4.1 Gradual alignment of energy poverty and ECs

Energy poverty and energy communities have evolved according to different timelines in EU legislation.

The first references to energy poverty within the EU legislative framework can be traced back to the Second Energy Package (adopted in 2003), namely in the Electricity Directive 2003/54/EC and the Gas Directive 2003/55/EC. Both directives obliged Member States to take appropriate measures to protect end-consumers and in particular to ensure “that there are adequate safeguards to protect vulnerable customers,<sup>3</sup> including measures to help them avoid disconnection.”<sup>4</sup> Provisions on more general consumer protection mainly focused on transparency of contractual terms and conditions, general information, dispute settlement mechanisms and the ability to switch suppliers. Recital<sup>5</sup> 24 of the Electricity Directive, in turn, gave some guidance on how Member States may support vulnerable consumers, for example by payment of electricity bills or “more general measures taken in the social security system.”<sup>6</sup>

The subsequent Third Energy Package (adopted in 2009) contains more concrete references to energy poverty, recognising it as a growing problem.<sup>7</sup> Both the Electricity and Gas Directives established legal requirements to address energy poverty “where identified;”<sup>8</sup> However, they left final responsibility to each Member State. These directives did take the step of obliging Member States to define the concept of “vulnerable customers” and of

<sup>2</sup> Magdalinski, Delair & Pellerin-Carlin (2021, 2 February). Europe Needs a Political Strategy to End Energy Poverty.

<sup>3</sup> EU legislation did not provide a definition for the concept “vulnerable customer”. It was only through requirements stemming from the Third Energy Package that Member States had a legal obligation to define “vulnerable customers”. Thomson & Bouzarovski (2018, August). Addressing Energy Poverty in the European Union: State of Play and Action.

<sup>4</sup> Directive 2003/54/EC, Article 3, paragraph 5.

<sup>5</sup> Recitals set out the reasons for the content of the Articles of an act. (Publications Europa (s.d.). Interinstitutional Style Guide. 2.2 Preamble (citations and recitals).

<sup>6</sup> Directive 2003/54/EC, Recital 24.

<sup>7</sup> Directive 2009/72/EC, Recital 53; Directive 2009/73/EC, Recital 50.

<sup>8</sup> Directive 2009/72/EC, Article 8; Directive 2009/73/EC, Article 4.



taking appropriate measures to ensure that vulnerable customers are protected.<sup>9</sup>

Energy communities were defined as legal entities for the first time in the CEP (adopted in different stages between 2018 and 2019; see analysis below). However, looking at it through a broader lens, the European Commission included the concept of consumer empowerment already in its 2015 publication *Communication on the Energy Union Strategy*. It states that:

*Most importantly, our vision is of an Energy Union with citizens at its core, where citizens take ownership of the energy transition, benefit from new technologies to reduce their bills, participate actively in the market, and where vulnerable consumers are protected.*<sup>10</sup>

In the context of the CEP, the revisions of the Renewable Energy Directive, Electricity Market Design Directive, and to a lesser extent the Energy Efficiency Directive, represented opportunities to concretely integrate these innovative possibilities for consumer engagement in the energy system.<sup>11</sup>

## 4.2 The Clean Energy Package



In the course of 2018 and 2019, the EU energy legal and policy framework was updated to deliver on the Union's commitments to the Paris Agreement to reduce greenhouse gas (GHG) emissions. Building on the 2030 targets set out by the Commission in 2014 in the energy and climate framework, and the 2015 Energy Union Strategy, the update established concrete ways to implement the objectives and dimensions set out in both.<sup>12</sup>

The CEP is composed of four directives and four regulations<sup>13</sup>. It officially recognised and reinforced the central role that citizens and communities can and must play in the energy transition through their active participation in the energy market.<sup>14</sup> Importantly, energy poverty considerations are also raised within many of this package's new legislative acts.

The most important provisions concerning energy poverty and energy communities are described below.

### Internal Market for Electricity Directive

The Internal Market for Electricity Directive (IEMD) aims to both empower

Directive, Common rules for the internal market for electricity Directive, Governance of the Energy Union and Climate Action Regulation, Risk-preparedness in the electricity sector Regulation, European Union Agency for the Cooperation of Energy Regulators Regulation, Internal Market for Electricity Regulation.

<sup>14</sup> REScoop.eu & ClientEarth (2020). Energy Communities under the Clean Energy Package.

<sup>9</sup> Directive 2009/72/EC, Article 7; Directive 2009/73/EC, Article 3.

<sup>10</sup> COM(2015) 80 final, page 2.

<sup>11</sup> COM/2015/0339 final.

<sup>12</sup> Kehoe & Hancher (2020, November). Governance of the Energy Union.

<sup>13</sup> Energy Performance of Buildings Directive, Renewable Energy Directive, Energy Efficiency



and protect consumers within the energy market across Europe. The Directive explicitly recognises the essential role that consumers will play to achieve specific targets such as the increase of renewable energy generation and flexibility and aims to provide them with a set of rights and tools to ensure their effective participation.<sup>15</sup>

In line with its predecessor, Directive 2009/72/EC, the IEMD obliges Member States to ensure adequate consumer protection and defines the concept of “vulnerable consumers.”<sup>16</sup> Member States also need to ensure consumer’s right to good quality energy at reasonable, transparent, comparable and non-discriminatory prices. However, their actions must not interfere with the operation of the market, as a smoothly working market is considered essential for a fair transition. The same article introduces a legal requirement for Member States to take appropriate measures to address energy poverty “where identified.”<sup>17</sup> The IEMD connects this to new provisions in the Governance Regulation, asking Member States to assess the number of households in energy poverty.<sup>18</sup> Furthermore, Article 29 of the IEMD requires that the concept of “energy poverty” at the national level should be established using “a set of criteria, which may include low income, high expenditure of disposable income on energy, and poor energy efficiency.”<sup>19</sup>

Community energy, on the other hand, has been acknowledged as an “effective and cost-efficient way to meet citizen’s needs and to boost consumer engagement and participation within the energy system.”<sup>20</sup> The Recitals to the IEMD

recognise that empowerment and protection of consumers can be achieved through community energy. Concretely, Recital 43 states that:

*Community energy can also advance energy efficiency at household level and help fight energy poverty through reduced consumption and lower supply tariffs. Community energy also enables certain groups of household customers to participate in the electricity markets, who otherwise might not have been able to do so.*<sup>21</sup>

While Article 16 defines the concept of Citizen Energy Communities (CECs) and obliges Member States to provide an enabling framework for CECs, it does not explicitly reinforce their role in tackling energy poverty, enabling access to renewable energy for vulnerable consumers and boosting their engagement within the energy system. As such, while the IEMD acknowledges the role that energy communities can play in addressing energy poverty, there are no concrete provisions elaborating how Member States should address or support tackling energy poverty through energy communities.

## Renewable Energy Directive

Similar to the IEMD, the Recitals to the Renewable Energy Directive (RED II) acknowledge the role of RECs in addressing energy poverty. First, it confirms the importance of participation of vulnerable and low-income households in RECs. Similar to Recital 43 of the IEMD, Recital 67 of the RED II recognises that renewable energy communities can help

<sup>15</sup> Directive (EU) 2019/944, Recital 10 and Chapter III Consumer Empowerment and Protection.

<sup>16</sup> Directive (EU) 2019/944, Article 28.

<sup>17</sup> Directive (EU) 2019/944, Article 28.

<sup>18</sup> Regulation (EU) 2018/1999, Recital 26 and Article 3.

<sup>19</sup> Directive (EU) 2019/944, Article 29.

<sup>20</sup> Directive (EU) 2019/944, Recital 43.

<sup>21</sup> Directive (EU) 2019/944, Recital 43.



fight energy poverty through reduced consumption and lower supply tariffs.

Unlike the IEMD, however, the RED II contains more concrete provisions about how Member States should support vulnerable and low-income households so they can benefit from community energy initiatives. Article 22, explicitly states that Member States must ensure, through their enabling frameworks for RECs, that the “participation in renewable energy communities is accessible to all consumers, including those in low-income or vulnerable households.”<sup>22</sup> This means that Member States are required to put in place policies and measures to remove potential barriers that might prevent low-income or vulnerable households from (voluntary) participation in RECs, so that they are able to benefit from RECs on an equal footing with other potential members.<sup>23</sup> This could for instance include incentives for low-income or vulnerable households, or incentives to energy communities themselves so they can prioritise outreach to, and inclusion of, such households. However, the RED II is not prescriptive in this regard. Member States must include the main elements of their enabling frameworks for RECs in their updated National Energy and Climate Plans (NECPs).<sup>24</sup>

The definition of RECs in Article 22, contains largely similar criteria as the definition of CECs in the IEMD. Their main objective is to provide environmental, social or local economic benefits to their members and the local community where they operate rather than generate profits. Unlike CECs, RECs require that effective control over the project remain local,

namely in the hands of “natural persons” (i.e. citizens, SMEs or local authorities).<sup>25</sup>

## Energy Efficiency Directive

The Energy Efficiency Directive (EED) recognises the importance of energy efficiency measures to tackle energy poverty. However, its acknowledgment is mainly done through the Recitals, and there are only a few concrete provisions in the EED dealing with energy poverty. Only one specific reference to energy poverty can be found in the Articles, namely Article 7 on energy savings obligations for Member States. It requires Member States to direct “a share of their energy efficiency measures under their national energy efficiency obligation schemes, alternative policy measures, or programmes or measures financed under an Energy Efficiency National Fund, as a priority among vulnerable households, including those affected by energy poverty and, where appropriate, in social housing.”<sup>26</sup> Member States must provide information on the outcome of these measures. The Governance Regulation contains similar obligations.<sup>27</sup>

While the role of energy communities in reducing energy consumption and achieving energy efficiency, including through tackling energy poverty, was acknowledged in the IEMD and the RED II, there are no references to energy communities in the EED. In the proposal for a revision of the EED in the context of Fit for 55, the Commission has attempted to close this gap (see analysis below).<sup>28</sup>

<sup>22</sup> Directive (EU) 2018/2001, Article 22.

<sup>23</sup> REScoop.eu & ClientEarth (2020). Energy Communities under the Clean Energy Package.

<sup>24</sup> Directive (EU) 2018/2001, Article 22.

<sup>25</sup> Friends of the Earth, REScoop.eu and Energy Cities (2020). Community Energy. A practical Guide to Reclaiming Power.

<sup>26</sup> Directive (EU) 2018/2002, Article 7, Paragraph 11.

<sup>27</sup> Regulation (EU) 2018/1999, Annex I, Part 1(3.2)(v).

<sup>28</sup> REScoop.eu (2021, 29 November). The EED: Supporting Energy Communities to Deliver Energy Savings.



## Energy Performance of Buildings Directive

Boosting energy efficiency of buildings will help reduce emissions as well as energy poverty and make people less vulnerable to energy price fluctuations. The Energy Performance of Buildings Directive (EPBD) does not fully acknowledge this link. It only mentions energy poverty in the context of the Long-Term Renovation Strategies, in which Member States must address energy poverty and outline national actions to tackle the issue. It is up to individual Member States to establish what they consider to be relevant measures.<sup>29</sup> Like the EED, energy communities are not explicitly mentioned in the EPBD, although again this is being addressed in the context of the Commission's Fit for 55 legislative proposals (see analysis below).

## Governance Regulation

The Governance Regulation, under Article 3, requests Member States to assess the number of households in energy poverty in their NECPs. As there is no standard definition of energy poverty, this assessment should be based on what is considered a basic standard of living within their national context and existing social and other relevant policies. Member States must also take into account the indicative guidance provided by the Commission with regards to relevant indicators for energy poverty.<sup>30</sup> If a Member State concludes that a significant number of its citizens live in energy poverty, it must outline measures, policies and programmes to tackle the issue and set a national indicative objective to reduce it. Member States' efforts are monitored by the European Commission

<sup>29</sup> Directive (EU) 2018/844.

<sup>30</sup> See below under Soft Measures of the EU Green Deal

through NECP progress reports which should be submitted every two years.<sup>31</sup>

With regards to Energy Communities, Article 20 obliges Member States to include in their NECP progress reports (1) a summary of the policies and measures under the enabling framework put in place by Member States to promote and facilitate the development of renewable energy communities and (2) information on national trajectories and objectives on renewable energy communities.

The Governance Regulation does not explicitly link energy communities to energy poverty alleviation. However, it does reference the enabling frameworks of RECs, which in turn oblige Member States to enable access to low-income and vulnerable households. It also acknowledges the role that RECs can play in meeting national energy efficiency objectives, asking Member States to indicate policies and measures to promote the role of RECs in contributing to the implementation of, inter alia, long term renovation strategies, in their National Energy and Climate Plans (NECPs).<sup>32</sup>

## 4.3 Recent developments under the European Green Deal, Fit for 55 and REPowerEU

In December 2019, the European Commission presented the European Green Deal, a new growth strategy for Europe that sets out a roadmap towards climate neutrality by 2050. The focus within this strategy is on fairness, inclusivity, resource-efficiency and a transformation towards a competitive economy in which growth is decoupled from resource use. The Green Deal promises to “leave no one behind,” wants to ensure that the clean energy transition

<sup>31</sup> Regulation (EU) 2018/1999.

<sup>32</sup> Regulation (EU) 2018/1999, Annex I, Part 1(3.2)(v).





involves and benefits consumers, and aims to address the risk of energy poverty “for households that cannot afford key energy services to ensure a basic standard of living.”<sup>33</sup>

Compared to previous strategies and packages, the Green Deal is broader in scope as it aims to mainstream sustainability in all EU policies. While the Energy Union Strategy (2015), which set the framework for the CEP, covered five policy dimensions, the Green Deal covers eight.<sup>34</sup>

The publication of the Commission’s European Green Deal Communication was only the beginning of this roadmap. The following sections will first look at soft measures published within the framework of the Green Deal (as of 22 September 2022), followed by an overview of the Commission’s proposals as part of the Fit for 55 legislative package and current negotiations relevant to REPowerEU.

#### 4.4. Soft measures and enabling tools

Within the framework of the Green Deal, a list of soft measures and enabling tools, such as recommendations and guidelines, were published to urge Member States and other stakeholders towards action. Several are relevant to energy poverty and energy communities:

- **The Just Transition Mechanism**, presented by the Commission in January 2020, aims to mitigate the social and economic costs of the energy transition, and thus is specifically intended to support regions heavily reliant on fossil fuels and carbon-intensive industries. It consists of three elements: the Just Transition Fund (a financial instrument within the Cohesion Policy), the InvestEU Programme and the Public Sector Loan Facility.<sup>35</sup> Eligible territories for support under the Fund are to be identified in the Territorial Just Transition Plans.
- **Renovation Wave strategy and Action Plan**, published in October 2020, is a central pillar of the Green Deal that aims to accelerate the upgrade of the EU’s public and private buildings to boost efforts in climate change mitigation and tackle energy poverty. Key principles include the affordability and wide availability of energy efficient and sustainable buildings to medium and lower-income households and to vulnerable people and areas.<sup>36</sup> It specifically recognises energy communities for their potential to offer “tools for the most vulnerable citizens to lift them out of energy poverty.”<sup>37</sup> Part of the Commission strategy to reach Renovation Wave objectives is to examine the process of implementing provisions on energy communities and support and promote their dissemination across Europe.<sup>38</sup>
- **The Affordable Housing Initiative**, a cornerstone of the Renovation Wave strategy, aims to revitalise 100 neighbourhoods as pilot projects across the EU in the coming years. Social, cooperative

<sup>33</sup> COM(2019) 640 final.

<sup>34</sup> Florence School of Regulation (2020, May 19). The European Green Deal.

<sup>35</sup> European Commission (s.d.). The Just Transition Mechanism: making sure no one is left behind.

<sup>36</sup> European Commission, Directorate-General for Energy, Bouzarovski et al. (2020). Towards an inclusive energy transition in the European Union: Confronting Energy Poverty amidst a Global Crisis.

<sup>37</sup> COM(2020) 662 final, page 18.

<sup>38</sup> COM(2020) 662 final.



and public housing providers will be a leading force.<sup>39</sup>

- **Commission Recommendation on Energy Poverty**, published in October 2020 and complementing the Renovation Wave, this recommendation strengthens calls to tackle energy poverty and worst-performing buildings (in terms of energy performance). It presents nine recommendations ranging from assessing distributional effects of the energy transition and leveraging the full potential of EU funding programmes to developing policies in a participative manner. The Recommendation does not mention energy communities and does not specifically reinforce citizen empowerment, participation and engagement in the energy system as a means to tackle energy poverty.

The Recommendation is accompanied by a **Staff Working Document** by which the Commission fulfils its obligation<sup>40</sup> to help Member States transpose new provisions on energy poverty. Concretely, it provides guidance on indicators of energy poverty and on the definition of what constitutes a “significant amount” of energy-poor households. Member States are to use this Guidance when updating their NECPs in line with Article 14 of the Governance Regulation.<sup>41</sup>

- **The New European Bauhaus Initiative**, launched by the EU Commission at the same time as

the Renovation Wave strategy, aims to reimagine Europeans’ daily lives and living spaces in inclusive and sustainable ways. It specifically prioritises sustainable solutions that are affordable and accessible for all. It has a strong emphasis on citizen initiatives, creating connections between people and communities, and building participatory approaches to current challenges.<sup>42</sup>

- **The European Climate Pact**, launched by the European Commission in December 2020, aims to create spaces for citizens, regions, local communities, CSOs, industry and schools to find each other in their fight against climate change. Community energy is specifically mentioned as an innovative way to foster that kind of participation and citizen engagement towards a just and sustainable future.<sup>43</sup>
- **Energy Poverty Observatory (EPOV)** (established in 2018). With this initiative the Commission provided resources, disseminated good practices and facilitated public engagement with regards to energy poverty. The aim was to support informed decision-making at all policy levels. The first phase ended in August 2020. In November 2021, the **Energy Poverty Advisory Hub (EPAH)** was established, building on the legacy of the Observatory. The Hub’s goal is to promote local action, provide direct support and share good practices among all stakeholders

<sup>39</sup> European Commission (2021, 4 March). The EU Affordable Housing Initiative: How can we bring it to the ground?

<sup>40</sup> This obligation was set out in the Governance Regulation (EU) 2018/1999.

<sup>41</sup> SWD(2020) 960 final.

<sup>42</sup> COM(2021) 573 final.

<sup>43</sup> COM(2020) 788 final.



interested in tackling energy poverty.<sup>44</sup>

- **European Pillar of Social Rights Action Plan**, launched by the Commission in March 2021. Preceding this Action Plan, the Commission published a Communication entitled *A Strong Social Europe for Just Transitions*, as a roadmap towards the Action Plan. This Communication highlighted the importance of the social economy (which also covers energy communities) to bring forward innovative solutions and generate engagement, initiatives and returns to local communities.<sup>45</sup> The Action Plan presents concrete actions to turn the European Pillar of Social Rights into reality. In 2022, the Commission aims to present a report on Principle 20 access to essential services.<sup>46</sup>
- **Council Recommendation on ensuring a Fair Transition Towards Climate Neutrality**, published on 27 June 2022. With this Recommendation, the EU Council wants to provide Member States with further guidance to enhance their commitment in designing and implementing just transition policies and ensure coherence between EU and Member State efforts. The proposal recommends promoting energy communities as a way forward for empowering vulnerable citizens and increasing access to renewable energy for vulnerable households. However, it only

encourages Member States to take empowerment through citizen energy communities into account; it does not make a connection with the enabling frameworks of RECs in the RED II.<sup>47</sup>

- **Dedicated EU funds** for a just transition, including the Recovery and Resilience Facility (the centrepiece of the NextGenerationEU Recovery Package), the Just Transition Fund (see above), the European Social Fund Plus and the proposal for a Social Climate Fund (see below).<sup>48</sup>
- **Energy Communities Repository and Advisory Hub for Rural Energy Communities**<sup>49</sup>, both launched in 2022. These initiatives are to support and facilitate the development of energy communities across the Union, respectively focussing on urban and rural areas. The Repository's services include data collection and analysis, technical assistance and the sharing of best practices, guidance materials, a policy analysis database, a helpdesk, a map of energy communities and more. Key activities of the Advisory Hub include technical assistance, networking opportunities and mapping of rural energy communities across Europe.
- **Commission Energy Poverty and Vulnerable Consumers Coordination Group**, set up by a Commission Decision in April 2022. The Group will facilitate the exchange of information, expertise

<sup>44</sup> Energy Poverty Advisory Hub (2021, 8 December). EPAH Leaflet.

<sup>45</sup> COM(2020) 14 final.

<sup>46</sup> European Commission (s.d.). The European Pillar of Social Rights Action Plan.

<sup>47</sup> COM(2021) 801 final.

<sup>48</sup> European Commission (2021, 14 December). Questions and answers: A fair transition towards climate neutrality.

<sup>49</sup> Energy Communities Repository (s.d.). About.

<sup>50</sup> Rural Energy Community Advisory Hub (s.d.). Home.





and best practices, and coordinate action between the Commission and Member States with regard to addressing energy poverty.<sup>51</sup>

- **Energy Communities Facility**, which the Commission aims to set up “to provide cascade funding to energy community projects in the EU, under the LIFE programme.”<sup>52</sup>

## 4.5 The Fit for 55 Package

### 'Fit for 55' Package: Key facts



An important step within the Green Deal roadmap has been the entry into force of the Climate Law in 2021, which turned the long-term objective of a climate neutral Europe by 2050 into a legally binding obligation, also introducing an intermediate target for 2030. The previously agreed GHG emission reduction of 40% by 2030 (compared to 1990) under the 2030 climate and energy framework, was to be raised to at least 55%.<sup>53</sup> The Fit for 55 Package, presented in July and December 2021, aims to align other EU targets and policies with the updated GHG emissions reduction targets for 2030.

The Green Deal commits to putting people first and ensuring a just climate and energy transition; the Fit for 55 legislative package aims to raise those

social ambitions even further. Awareness of energy poverty and the importance of local action within the energy transition are featured as policy priorities.<sup>54</sup> In what follows, the focus will again remain on the files most relevant to both energy poverty and energy communities and their interlinkages. As with the subsequent section on the REPowerEU plan, it will provide indications about the ongoing policy debates and priorities. At the time of writing, the legislative process was still ongoing; as such, the analysis includes only information accessible as of 22 September 2022.

## Proposal for a Social Climate Fund Regulation (SCF)

Communities and organisations across Europe have applauded the initiative of setting up a dedicated fund to support the Green Deal's mission to leave no one behind.<sup>55</sup> It is considered a promising tool to fill the existing gap for financing structural solutions to tackle the root causes of energy poverty and address the distributional impacts of the energy and climate transition in a proactive manner.

Nevertheless, as proposed by the Commission, the Fund is mainly designed to address the distributional effects of extending the Emissions Trading System to buildings and transport (ETS 2). The aim of ETS 2 is to create an economic incentive to reduce fossil fuel consumption and thus GHG emissions. The Commission recognises, in the proposal itself, that higher carbon prices in these sectors may disproportionately affect vulnerable households.<sup>56</sup> The scope and size of the Fund, however, have left civil society

<sup>51</sup> Commission Decision (EU) 2022/589.

<sup>52</sup> COM(2022) 221 final, Annex.

<sup>53</sup> Kneebone (2021, 21 July). Fit for 55: EU rolls out largest ever legislative package in pursuit of climate goals.

<sup>54</sup> Bouzarovski, Thomson & Cornelis (2021). Confronting Energy Poverty in Europe: A Research and Policy Agenda.

<sup>55</sup> See for example: European Alliance for a Just Transition (2022, March). Joint Statement on the Social Climate Fund.

<sup>56</sup> COM(2021) 568 final, Recital 10.



organisations (CSOs) worried that it will not be able to buffer the impact of ETS 2 and also serve as a structural measure to tackle energy poverty, as envisioned by the Commission.<sup>57</sup>

The Parliament's negotiating position for the trilogues suggests that it wants to partially decouple beneficiaries of the SCF from contributions to ETS 2, for example by exempting households from ETS 2 contributions until 2029. The Council's position, however, does not include such an ambition: it calls for both the SCF and ETS 2 to operate from 2027 to 2032, and offers no social safeguards for households.

While room remains to improve provisions on energy communities and citizen empowerment, the Parliament acknowledges the social role of energy communities. Energy communities are not mentioned in the Commission's proposal or in the Council's negotiating position.

## Renewable Energy Directive (RED)

Through the proposed revisions of the RED II, the European Commission recognises the need for increased ambitions on renewable energy production to meet the 2030 and 2050 climate objectives. The Commission originally proposed a new binding renewable energy target of at least 40% by 2030; with the REPowerEU Plan, this was subsequently raised to 45% .

Important provisions for energy communities in the RED II are contained in the articles and recitals on the

definitions and enabling frameworks of RECs (as discussed in the analysis above). The Commission did not reopen these provisions in its proposal for a revision of the RED II, as they are relatively new for Member States. Instead, it will focus on transposition at the national level and the creation of enabling frameworks by all Member States to support the development of energy communities.<sup>58</sup>

Important to energy poverty, the Commission's proposal does set a new binding annual growth rate target of renewable energy in the heating and cooling sector<sup>59</sup>. It also obliges Member States to ensure accessibility of such technologies to all consumers, particularly those in low-income or vulnerable households, who would not otherwise have sufficient up-front capital to benefit.<sup>60</sup> RECs were not mentioned in the Commission's proposal as a way to achieve these objectives. The Parliament's position for negotiations with the Council does link RECs to building renovations and to district heating and cooling networks.

## Energy Efficiency Directive (EED)

The revisions of the Energy Efficiency Directive (EED) and Energy Performance of Buildings Directive (EPBD) align with the Commission's strong emphasis on accelerating building renovation as a cornerstone of the Green Deal. The proposal of the EED proclaims energy poverty alleviation as one of its key goals. While Member States were already required to provide a national definition for energy poverty in their NECPs, the

percentage points as an annual average calculated for the periods 2021 to 2025 and 2026 to 2030. That increase shall be 1.5 percentage points for Member States where waste heat and cold is used.

<sup>60</sup> REScoop.eu (2021, 23 November). The REDII: strengthening the role of RECs to support increased ambition on renewable energy.

<sup>57</sup> Myers (2021, 19 July). Fit for 55 will penalise poor Europeans.

<sup>58</sup> REScoop.eu (2021, 23 November). The REDII: strengthening the role of RECs to support increased ambition on renewable energy.

<sup>59</sup> Article 23(1) of the RED II proposal states that each Member State must increase the share of renewable energy in the heating and cooling sector by at least 1.1



Commission's proposal for a revision of the EED provides a first attempt to enshrine a European-wide definition of energy poverty into EU law:

*'energy poverty' means a household's lack of access to essential energy services that underpin a decent standard of living and health, including adequate warmth, cooling, lighting, and energy to power appliances, in the relevant national context, existing social policy and other relevant policies.*<sup>61</sup>

The Commission's proposal also seeks to reshape a number of instruments to better funnel resources to reduce energy poverty.<sup>62</sup> Article 8 contains provisions for an energy poverty ring-fence within Member States' Energy Efficiency Obligations and a requirement to renovate public social housing. Provisions in Article 22 focus on the empowerment and protection of vulnerable consumers.

References to energy communities in the EED were missing under the CEP. With the current EED proposal, the Commission has attempted to make links and create coherency with the RED II and the IEMD by acknowledging the role of RECs and CECs in promoting energy efficiency and poverty alleviation. Recital 92 particularly highlights the pivotal role that energy communities play in empowering consumers and addressing energy poverty. The recitals provide a basis for supporting RECs and CECs in the EED.<sup>63</sup>

While energy communities are not a contentious topic in either the EU Parliament or the Council, energy poverty provisions are being widely debated. While the Council especially aims to water

down requirements on energy poverty in Article 22, the Parliament's negotiating position makes more explicit links between the role of energy communities, energy poverty alleviation, energy savings and awareness raising. It reinforces the requirement for Member States to remove unnecessary hurdles to the development of energy communities and underlines that, with proper support from Member States, energy communities can help fight energy poverty.

## Energy Performance of Buildings Directive (EPBD)

A key initiative presented in the Renovation Wave strategy is the revision of the EPBD. The revision is necessary to align the EU regulatory framework with the objective to double the annual renovation rate by 2030, foster deep(er) renovations, and address growing concerns over climate and social issues. The Commission proposed a revision of the directive in December 2021.<sup>64</sup>

Part of the proposal is to amend the Long-Term Renovation Strategies to become more operational National Building Renovation Plans. Through these plans, Member States are to align the buildings sector to the EU 2030 and 2050 climate and energy goals. They also need to showcase the contribution of local actors, such as energy communities, in achieving building decarbonisation.

Overall, the current EPBD proposal recognises and supports the role of energy communities in renewable energy generation and neighbourhood approaches; however, it still overlooks the role they can play in driving energy savings and building renovations.

<sup>61</sup> COM(2021) 558 final, Article 2, Paragraph 49.

<sup>62</sup> REScoop.eu (2021, 29 November). The EED: Supporting Energy Communities to Deliver Energy Savings.

<sup>63</sup> REScoop.eu (2021, 29 November). The EED: Supporting Energy Communities to Deliver Energy Savings.

<sup>64</sup> COM(2021) 802 final.



Some of the core debates in the revision of EPBD revolve around energy poverty. One of the most contentious issues is the proposal for mandatory energy performance standards (MEPS). While debate about MEPS has triggered discussions about timelines and ambitions for raising the energy performance class of different building stock categories in the Parliament and Council, it has also caused concerns about social safeguards.

At the time of writing, the negotiating positions of the Council and Parliament had not yet been published. The Rapporteur's draft report, however, does include welcome references to local action on building decarbonisation and support for energy communities.

#### 4.6 REPowerEU Plan



The REPowerEU Plan is the EU Commission's response to the current fossil fuel crisis and Russia's invasion of Ukraine. Soaring energy prices across the Union have laid bare its dependence and vulnerability to (Russian) fossil fuel supplies and the urgent need for a rapid acceleration of the clean energy transition. The plan builds on the Fit for 55 proposals, as published by the Commission in June and December 2021. REPowerEU aims to align ongoing policy processes with today's rapidly changing reality.

Concretely, REPowerEU (proposed by the Commission on 18 May 2022) aims to decrease EU dependence on Russian gas.

As such, it aims to diversify energy supplies, raise EU ambitions on energy savings, and scale up the installation of renewable energy production. It introduces some non-binding recommendations, guidance and strategy documents, as well as proposals to further amend legislation already being discussed under Fit for 55. It signals the Commission's priorities moving forward, at least until 2024, to Member States, the energy sector, external partners, citizens and other stakeholders.

Several parts of the RePowerEU Package are relevant to energy communities and energy poverty, both in their own right and as reinforcing concepts. In this sense, REPowerEU represents an opportunity to further elaborate the links between energy communities, an inclusive energy transition, and combating energy poverty.

The presentation of points below focuses only on parts of the plan deemed relevant to the topic of this deliverable; it is thus not a comprehensive overview of the entire plan.

#### The Chapeau Communication

The REPowerEU Plan Communication provides an overview of different elements of the plan and ties them together.<sup>65</sup> The Communication places most emphasis on reducing energy use, diversification of energy supply and decarbonisation. Attention to citizen-led initiatives and empowerment of people in vulnerable situations is scarce, compared to other parts of the plan (see below). However, the Communication does acknowledge the importance of local action and community participation to ensure tailored solutions to the current crisis for people in vulnerable situations and citizen's engagement in the energy transition. It therefore urges Member States to

<sup>65</sup> COM(2022) 230 final.



accelerate transposition of the Electricity Directive to “effectively allow consumers to participate in energy markets (individually or via energy communities or collective self-consumption schemes) to produce, self-consume, sell or share renewable energy.”<sup>66</sup>

## The Solar Strategy

Most references on energy communities can be found in the Solar Strategy, which aims to accelerate deployment of renewable energy. It proposes an increased target of 45% renewable energy by 2030 (5% more than the proposed target in the Fit for 55 Package) with an amendment to the Renewable Energy Directive,<sup>67</sup> and introduces the European Solar Rooftops Initiative. This initiative is anchored around a legally binding solar rooftop obligation for new public and commercial buildings and new residential buildings, which the Commission proposes in further amendments to the RED II.

Two aspects of the European Solar Rooftops initiative are of particular importance in relation to energy communities and energy poverty. First, the initiative introduces a specific target for growing the energy community movement. Concretely, the EU will work together with Member States to set up, by 2025, at least one renewables-based energy community in every municipality with a population higher than 10 000. To support this, the initiative urges Member States to transpose the RED II and Electricity Directive and to lift barriers to community energy development. Second, energy communities and collective solar actions are considered to play a vital role in reducing fossil fuel consumption and addressing energy poverty and

vulnerability. The EU and Member States intend to work together to ensure that energy poverty is addressed and to ensure access to solar energy for energy poor and vulnerable consumers. To this end, Chapter 2.2 urges Member States to lift barriers preventing citizens from becoming prosumers or setting up or joining an energy community.

## Commission Recommendation on permitting procedures and power purchase agreements (PPAs)

As part of the strategy to accelerate the roll-out of renewable energy projects, the REPowerEU Package also contains a Recommendation that calls on Member States to adopt further measures to simplify and shorten permitting procedures. It also aims to address the slow and complex permitting processes that impede the development of energy communities, encouraging Member States to “implement simplified permit-granting procedures for renewable energy communities, including for the connection of community-owned plants to the grid and reduce to a minimum production licensing procedures and requirements, including for renewables self-consumers.”<sup>68</sup>

In a dedicated section on citizen and community participation, the Commission stresses the importance of citizen participation, consultation and engagement, including from low- and middle-income households, and energy communities in renewable energy projects to ensure public acceptance and a just distribution of costs and benefits of the transition. It urges Member States to take measures to encourage passing the benefits of the energy transition to local communities. However, there is no

<sup>66</sup> COM(2022) 230 final.

<sup>67</sup> This is also proposed with an amendment to the RED II.

<sup>68</sup> C(2022)3219 final, Paragraph 9.





specification on how to concretely facilitate participation of low- and middle-income households in energy communities and energy projects more generally.

### Guidance on permitting procedures and power purchase agreements

The Commission's recommendation on permitting procedures and PPAs is accompanied by a Guidance document for Member States, which were to transpose rules on the permit-granting process for renewable energy projects introduced in the RED II into their national legislation by 30 June 2021. The transposition process has been very slow, however, impeding the ability of citizens in many Member States to set up energy communities. In the Guidance document, the Commission therefore lists barriers, sets out possible solutions and identifies good practices among national measures to transpose the RED II or measures going beyond the scope of this Directive.

The Guidance recognises that while community engagement and involvement will be necessary to ensure a just transition and address complex issues such as energy poverty, small-scale renewable projects by households and energy communities are confronted with even more challenges than professional market participants. The Guidance therefore proposes several measures Member States can take to support development of energy communities, linking these to existing best practices.

Specifically with regards to energy poverty, the Guidance mentions the example of Greece and Belgium. In Greece, the definition of energy

communities requires that they actively participate in reducing energy poverty. In Belgium, the Flemish legal framework enables social housing providers who install solar panels on the roofs of social housing to recover the costs of investments from social tenants. They can include the cost of the use of PVs and the generated electricity in the rent. The Flemish government determines the tariffs that social tenants must pay for the solar power they consume when the sun shines. It guarantees that these prices will always be lower than social or commercial tariffs. Because of the scale of these projects<sup>69</sup> and the lower electricity bills, this brings down overall rental costs.<sup>70</sup>

### Save Energy Communication

The Save Energy Communication focuses on two pathways to increase energy savings across the Union. A first approach sets out ways to encourage behavioural change to achieve immediate results. It calls on individuals to take up their responsibilities and play their part in saving energy. While acknowledging that people in vulnerable situations may have already been forced to take uncomfortable or unhealthy measures, the Commission wants to ensure that even urgent actions are taken in an inclusive and just manner. The Communication does not specify how this will be achieved.

A second pathway focuses on accelerating structural, mid- to long-term energy efficiency measures. The Commission proposes to raise the energy efficiency target to at least 13% by 2030 and aims to strengthen a set of Fit for 55 elements in ongoing negotiations. Tailor-made support for citizens on how to get access to renewable energy, implement energy

<sup>69</sup> See for example ASTER, an initiative from the Flemish Social Housing Sector: <https://aster.vlaanderen.nl/wat-is-aster>

<sup>70</sup> SWD(2022) 149 final, page 19.



efficiency measures, or join an energy community is deemed essential. The Commission also recognises the role of local authorities and organisations to effectively reach out to citizens and businesses, especially with regards to people facing or at risk of energy poverty. As energy communities collaborate with local authorities on outreach to vulnerable households and in solidarity measures, this also represents an opportunity for making links with the role of energy communities in reducing energy consumption among vulnerable groups.

The Communication creates further opportunity for energy communities to be acknowledged for the role they can play in realising the energy efficiency objective. From its side, the Commission promises to provide technical and financial support, access to information and continue bringing together relevant stakeholders.

#### 4.7 Takeaways and recommendations for EU policy makers

Community energy has the potential to create a meaningful approach to citizen empowerment, in which “the formerly powerless become capable individuals who are willing and able to take ownership and responsibility for their own choices, decisions, and actions in society or on markets.”<sup>71</sup> But being part of an energy community also goes beyond creating individual capabilities. Energy communities create social cohesion and spaces to educate and train people on issues of energy, climate and democracy, triggering behavioural change and energy

savings through a deeper and more conscious involvement within the entire system.<sup>72</sup> Energy communities enable collective empowerment, which is necessary to tackle systemic inequalities.<sup>73</sup>

For the benefits of community energy to become wide-spread or mainstream, including among vulnerable groups, policy must play an active role. To tackle energy vulnerability through community energy, it is not enough to merely provide legal possibilities and information.<sup>74</sup>

Preceding assessment of EU legislation shows that, historically, empowerment and protection of (vulnerable) consumers in the energy system has been framed around the idea of rational consumer behaviour, without questioning basic fundamentals of the market. As such, empowerment was framed around freedom as ‘a consumer’ to choose in the market, emphasising transparency and access to information, and to create competition for more options.

The Clean Energy Package, with the introduction of new concepts such as active customers, renewables self-consumption and energy communities, has advanced significantly towards re-envisioning consumer empowerment. In particular, the CEP provides consumers with agency to make choices as citizens and the ability to become active in the energy market, both as an individual and with others. While the legislative acquis for energy poverty has also taken some significant strides forward, as of yet there is still little linking it with community solutions. As long as the prerequisites for becoming empowered are lacking among

<sup>71</sup> Hanke & Lowitzsch (2020). Empowering Vulnerable Consumers to Join Renewable Energy Communities—Towards an Inclusive Design of the Clean Energy Package, page 4.

<sup>72</sup> Friends of the Earth Europe, REScoop.eu & Energy Cities (2020, October). Community Energy. A Practical Guide to Reclaiming Power.

<sup>73</sup> Hanke & Lowitzsch (2020). Empowering Vulnerable Consumers to Join Renewable Energy Communities—Towards an Inclusive Design of the Clean Energy Package

<sup>74</sup> Hanke & Lowitzsch (2020). Empowering Vulnerable Consumers to Join Renewable Energy Communities—Towards an Inclusive Design of the Clean Energy Package.



certain social groups, empowerment cannot become a reality for everyone. In the face of the current energy crisis, this leaves already vulnerable households especially unarmed.<sup>75</sup>

Enabling policies that aim to promote inclusion must start from the realities of vulnerable households. While energy communities have the potential to create solutions tailored to the needs of energy poor and vulnerable households, public institutions and associations need to be catalysts and facilitators. Collective effort is needed to both create the prerequisites for energy communities to tackle energy poverty and for energy vulnerable groups to become part of the community energy movement.<sup>76</sup>

We have formulated these recommendations for EU policymakers to make this happen:

### 1. Provide further guidance on the role energy communities can play in delivering a just energy transition

At the national level, examples of energy communities tackling energy poverty or achieving more inclusiveness remain scarce. Only Spain, Portugal, Italy and Greece explicitly link energy poverty alleviation with RECs in their NECPs.<sup>77</sup> The CEES pilot country analysis below shows that, at least for these countries, there are limited examples of policies and measures to facilitate or support the connection between energy communities and energy poverty alleviation. This demonstrates a significant gap in Member State implementation of their requirements under the RED II to put in place policies

and measures to ensure vulnerable and low-income households are able to participate and benefit from renewable energy communities. Member States were supposed to transpose the RED II into national legislation by 30 June 2021.

Both energy poverty and energy communities remain rather new concepts for many Member States, local authorities, stakeholders and citizens. This makes linking energy communities with energy poverty alleviation especially challenging. If this gap is not filled, expectations that energy communities can play a key role in addressing energy injustices and contributing to a more inclusive energy transition will be difficult to fulfil.

In order to scale up energy communities as a potential tool to combat energy poverty, the EU policy framework needs to provide further guidance to Member States on how to translate RED II provisions into national legislation, particularly around the definitions and the design of policies and measures in national enabling frameworks to help ensure inclusiveness. Although relatively limited, existing best practices can inform concrete ways forward (see the example of Greece below, under recommendations for national policy makers, number 3). While few examples of linking energy poverty with energy communities exist in Europe, approaches developed elsewhere (e.g. in the United States) are relevant.<sup>78</sup>

Additionally, capacity building and technical assistance are needed to ensure effective implementation and address shortcomings in the national framework. From the very beginning, this should

<sup>75</sup> Hanke & Lowitzsch (2020). Empowering Vulnerable Consumers to Join Renewable Energy Communities—Towards an Inclusive Design of the Clean Energy Package.

<sup>76</sup> Hanke & Lowitzsch (2020). Empowering Vulnerable Consumers to Join Renewable Energy Communities—Towards an Inclusive Design of the Clean Energy Package.

<sup>77</sup> Hanke, Guyet & Feenstra (2021) Do renewable energy communities deliver energy justice? Exploring insights from 71 European cases.

<sup>78</sup> Roberts, J (2016). Prosumer Rights: Options for An EU Legal Framework Post-2020 (ClientEarth, Brussels), page 12.





focus on ensuring that business models and policy designs allow for the full participation of disadvantaged and vulnerable communities.<sup>79</sup>

## 2. Further strengthen the links between energy communities and energy poverty alleviation at EU level

Acknowledgement of the multi-dimensional role energy communities can play in the energy transition and in tackling energy poverty more specifically has been growing in recent policy initiatives at the EU level, especially in the context of the negotiations around the Fit for 55 package and the publication of the REPowerEU plan. This offers additional leverage points to advocate for more recognition on this topic.

More effort is indeed needed to further strengthen those links and to establish empowerment through participation in energy communities as an integrated policy priority, both at national and EU level. EU policymakers should seize the opportunity offered by the current legislative process.<sup>80</sup> For instance, the Parliament's position on the EED, which expands recognition of the role of energy communities in addressing energy poverty and energy savings, should be supported by the Council in the trilogue process.

## 3. Develop further support for energy communities' role in addressing energy poverty and strengthening energy savings, particularly during the ongoing energy crisis.

The EU needs to move beyond rhetoric, providing guidance and support for the development of best practices on how to help energy communities address energy poverty. The REPowerEU plan makes

<sup>79</sup> Hoicka et al. (2021, September). Implementing a just renewable energy transition: Policy advice for transposing the new European rules for renewable energy communities.

welcome links between energy communities and inclusiveness, but references still remain somewhat artificial, and there is a lack of detail or concrete action on how to support community initiatives tackling energy poverty across the EU.

The role of energy communities as intermediaries between system operators and consumers should be recognised and supported under national energy efficiency obligation schemes. In order to help prepare citizens for shocks that will come from moving away from Russian gas, grants and other financial resources should be put into programmes that allow local authorities, civil society organisations, social economy actors, and energy communities to conduct outreach to educate and train citizens on how they can save energy.

In view of the need for Member States to update their national energy and climate plans (NECPs), Member States should also be required to elaborate how they aim to support energy communities to better address vulnerable groups and combat energy poverty.

## 4. Provide more clarity around the concept of energy communities

When looking at the transposition of energy community provisions into national law so far, it is rather clear that there is still a lack of understanding of what energy communities are and the roles they can play in the energy system. In EU legislation, energy communities are defined as an organisational or social concept. However, a noticeable trend among Member States that have transposed the RED II and IEMD is that energy communities are often conflated

<sup>80</sup> REScoop.eu (2022, 18 May). The REPowerEU Plan carves out a role for community energy but the EU still needs to address its fossil energy import addiction.



with technical, activity-based concepts such as renewables collective self-consumption, energy sharing and micro-grid technologies. As long as this confusion remains, there will be lack of clarity around the role energy communities play in tackling energy poverty, and how to address their needs as non-commercial market participants.

This confusion is also noticeable at EU level. For instance, In current negotiations around Fit for 55, a tendency remains to link energy communities to strictly technical concepts<sup>81</sup>, or to merely use them as a method to get public support. Furthermore, the way certain policy files or proposals mention energy communities sometimes shows either internal incoherences between different sections or inconsistency with other files. The discussions taking place around Fit for 55 and REPowerEU also show differences amongst the EU institutions in how they reference energy communities.<sup>82</sup>

Above all, energy communities represent an innovative way of organising the energy system. These values should be reflected and appreciated in ongoing negotiations and any future policy initiative. Putting social justice at the core of the narrative framing energy communities will in turn make it easier to envision concrete steps that ensure their accessibility to vulnerable households and to establish their specific role in the energy system

## 5. Energy and climate policies should be just by design

<sup>81</sup> The EU Parliament's position on the proposal for the establishment of a SCF, energy communities are specifically acknowledged for their innovative and social role in Recital 19 a (new). This acknowledgement is, however, not fully reflected beyond this recital, often only referencing technical aspects.

<sup>82</sup> Compared to the EU Parliament's position on the SCF proposal, the Commission's REPowerEU plan tends to link energy communities to social acceptance of the energy transition. See for example

While it is paramount that energy poverty alleviation and collective empowerment get further recognition as mutually reinforcing elements within the energy transition, it is important to consider that purely bottom-up approaches, alone, may not deliver energy justice.<sup>83</sup> Therefore a general, EU-wide framework more thoroughly integrating energy, climate and social policies is necessary. Persisting silos are perhaps one of the largest obstacles in the way of adopting meaningful policies and measures on energy poverty.

This has resulted in predominantly reactive EU and national approaches towards ensuring a just transition. Exemplary is the proposal to create a SCF to mitigate the distributional impact of another proposal: ETS 2. Furthermore, the Commission's REPowerEU plan, which advises Member States to redistribute revenues from energy sector windfall profits and emissions trading to consumers, regulate prices and use State aid rules to offer support to businesses which may be affected by the current crisis. However, the plan fails to elaborate how it wants to proactively tackle issues of energy justice, protect vulnerable consumers and move away from gas towards renewable energy.<sup>84</sup> The aim of energy and climate policies should be to design it so that it limits social and distributional impacts in the first place.

A way forward is to further mainstream employment, social and distributional impact assessments at both national and EU level. This should always be

the Recommendation on permitting procedures and Power Purchase Agreements C(2022)3219, Paragraph 8.

<sup>83</sup> Catney et al. (2014). Big society, little justice? Community renewable energy and the politics of localism.

<sup>84</sup> REScoop.eu (2022, 18 May). The REPowerEU Plan carves out a role for community energy but the EU still needs to address its fossil energy import addiction.



accompanied by a clear path forward, beyond the impact assessment itself. It should lead to a decision-making process that prioritises policy options that avoid the need to create additional mitigation measures. If applied, for example, in the context of the ETS 2, such an assessment would have concluded that alternatives to the ETS should have been adopted. This would have reduced the need for designing the SCF as a band-aid measure, opening up the space for a SCF as a strategic instrument aimed at empowering low-income and vulnerable citizens to participate in the energy transition and tackling the root causes of energy poverty.<sup>85</sup> Such methodologies should apply to both national and EU policy making and ideally even go beyond the Fit for 55 Package, taking into account gender, racial and other intersecting grounds of discrimination. Moreover, such measures should be binding for Member States to implement and not just an invitation for them to consider.

## 6. Start from the needs of people experiencing vulnerability

Crucially, to break down barriers between social and energy policies and to create lasting change,<sup>86</sup> the needs of citizens, especially those living in the most vulnerable situations, need to be understood.<sup>87</sup> Member States already have the legal obligation to define the concept

of vulnerable consumers, tackle energy poverty where identified, and deal with barriers to the development of RECs and their accessibility to energy poor and vulnerable households. In order to understand why vulnerable households are not able to benefit and/or take part in community energy projects, the EU should more strongly stimulate, collect and aggregate those efforts. The revision of the NECPs provides a concrete framework for this. It should thus be ensured that Member States pay particular attention to linking energy poverty alleviation targets with specific community energy targets.

To further support this, the EU level should prioritise discourse and collaborations that aim to identify and act on the needs and empowerment of those most vulnerable. Local and intermediary actors can help identify local needs. And local actors, such as energy communities, are specifically well-placed to help deliver integrated services such as flexibility, education and training services, solidarity initiatives, and citizen-led renovation programmes and implementing energy efficiency measures. Providing spaces, such as stakeholder platforms, working groups and task forces, that bring together social economy actors, will inform effective policies for a just transition.

<sup>85</sup> Due to low-demand elasticity of householder's energy use for heating, cooling and transportation, there exists considerable debate around the effect of using price mechanisms to provoke behaviour change. As pointed out by the Regulatory Assistance Project (RAP), barriers especially exist for low-income households, as they lack resources to invest in energy efficiency and renewable energy technologies. Pushing for behavioural change, without supportive programmes to tackle the root causes of energy poverty, might in this case lead to unhealthy living conditions and a reduction in the quality of life. (Regulatory Assistance Project (RAP) (2020, 18 May). Equity in the Energy Transition: Who Pays and Who Benefits?) This is also acknowledged in the Commission's recent REPowerEU plan. It

acknowledges that 'market-driven savings' may fall short in guaranteeing fairness and solidarity: "the wealthier may or may not adjust their behaviour. Others, specifically the most vulnerable, may instead be forced to take painful measures" (COM(2022) 240 final, Chapter 2) It is unclear how the Commission intends to connect this acknowledgement to the proposal for an ETS 2.

<sup>86</sup> European Commission, Directorate-General for Energy, Bouzarovski et al. (2020). Towards an inclusive energy transition in the European Union: confronting energy poverty amidst a global crisis.

<sup>87</sup> Hoicka et al. (2021). Implementing a Just Renewable Energy Transition: Policy Advice for Transposing the New European Rules for Renewable Energy Communities.



## 5. Implementation of the Clean Energy Package at the national level for CEES pilot partners

Community energy is unequally developed in Europe. While the movement is quite old and established in some countries, such as Denmark, the Netherlands and Germany, it is less developed in Central and Eastern Europe. As pointed out by Hoicka et al., each individual Member State has its own complex path-dependent tradition of renewable energy and the social economy.<sup>88</sup> This is also true for their approach towards energy poverty. Some countries recognise it as a very particular issue, with its own characteristic causes and symptoms, with the most distinct example being Spain. Others do not differentiate it from income poverty and advocate for addressing it with social policy, for example Germany, Denmark and Sweden.<sup>89</sup> However, aside from Member States' different speeds and pathways with regards to both topics, the struggle to link energy poverty with community solutions is rather universal. As is the difficulty of increasing accessibility of energy communities for low-income and vulnerable households. An often-cited exception here is the Greek law on energy communities, which specifically embeds energy poverty alleviation as a key objective of energy communities (more details below).<sup>90</sup>

To unlock their full potential as socially innovative ways of organising the energy system, these concerns and challenges need to be addressed, both at EU and Member State level. A first step is the

timely and effective transposition of existing provisions on energy communities and energy poverty at the EU level into national legislation.<sup>91</sup>

In this section the report focuses on how CEP provisions on energy communities and energy poverty came to be transposed at the Member State level for CEES pilot partners, namely Croatia, France and Portugal.<sup>92</sup> Each country's section focuses on:

- 1. The transposition of the EU definitions and enabling frameworks for RECs and CECs.** Most emphasis will be placed on the transposition of the definition and enabling frameworks for RECs, as those provisions particularly mention the need for ensuring accessibility to low-income and vulnerable consumers at the EU level;
- 2. An assessment of Member States' NECPs and LTRs.** Due to the subsidiarity principle, most power to put in place policies addressing energy poverty resides with the Member States. Member States' LTRs and NECPs are indicators for the timeframes and policies, definitions and measures each Member State aims to put in place to reduce energy poverty. The NECPs should also explain how a

<sup>88</sup> Hoicka et al. (2021). Implementing a just renewable energy transition: Policy advice for transposing the new European rules for renewable energy communities.

<sup>89</sup> European Commission, Directorate-General for Energy, Bouzarovski et al. (2020). Towards an inclusive energy transition in the European Union: Confronting Energy Poverty amidst a Global Crisis.

<sup>90</sup> REScoop.eu & ClientEarth (2020). Energy Communities under the Clean Energy Package.

<sup>91</sup> REScoop.eu & ClientEarth (2020). Energy Communities under the Clean Energy Package.

<sup>92</sup> The United Kingdom, although a pilot country in the CEES project, is left out of this analysis, since it is no longer obliged to transpose EU legislation since Brexit.



Member State aims to transpose the RED II.

Each assessment begins with a general outline of the countries' situation in terms of energy poverty.

## 5.1 Croatia

### Energy poverty in Croatia

Even though Croatia does not yet systematically collect data on energy poverty, EUROSTAT provides some indications. While the percentage of people with arrears on utility bills has been steadily decreasing over the past decade, the number is still high compared to other Member States: 13,6% in 2020 compared to an average of 6.5% for the EU's 27 Member States.<sup>93</sup> 5.7% of Croatian citizens could not keep their home adequately warm in 2020.<sup>94</sup> This number, too, has decreased in the last decade and is even below the EU average of 7.4%.<sup>95</sup> The lack of a clear national definition of energy poverty means that it remains difficult to identify the scope of the issue and its specific characteristics in Croatia.

The country mainly addressed energy poverty-related issues through direct financial support schemes, ranging from allowances to cover electricity, gas heating and general housing costs for vulnerable consumers to subsidy schemes for energy efficiency interventions and renovations.<sup>96</sup> General awareness and understanding of energy poverty is to a large extent still

lacking, it has been recognised as a growing problem in recent years, leading to a number of policy efforts aimed at building a better basis for defining, identifying and tackling the issue.<sup>97</sup> For example, since 2018, the Croatian government has put in place policies and strategies to identify and protect vulnerable energy consumers.<sup>98</sup> In 2020, an investment programme was approved for the renovation of housing under the Fund for Environmental Protection and Energy Efficiency, especially for the most vulnerable.<sup>99</sup> And in 2021, the *Draft Program to fight Energy Poverty, which includes the use of renewable energy sources in residential buildings in subsidised areas and areas of special state concern for the period until 2025* was published (see also below). Moreover, with the recent transposition of the RED II into national law, Croatian vulnerable citizens might find increasing opportunities for active participation in the energy system.

### Definitions of RECs and CECs

Both RECs and CECs were introduced in Croatian law in 2021. CECs are defined under the Electricity Market Law.<sup>100</sup> The Croatian government provided significant detail on some of the core elements within the EU directive, such as autonomy, openness and voluntariness. However, there are also limitations to the Croatian transposition. There is, for example, uncertainty whether cooperatives would

<sup>93</sup> EUROSTAT (2022, 22 August). Arrears on utility bills - EU-SILC survey.

<sup>94</sup> EUROSTAT (2022, 22 August). Inability to keep home adequately warm - EU-SILC survey.

<sup>95</sup> These are the latest available data collected by EUROSTAT for these indicators. More information and analysis on older data and other indicators can be found in: European Commission, Directorate-General for Energy (2020). Member State Reports on Energy Poverty 2019.

<sup>96</sup> European Commission, Directorate-General for Energy (2020). Member State Reports on Energy Poverty 2019.

<sup>97</sup> Horvat (Interreg Europe) (2020, 3 December). BUILD2LC – ON-LINE FINAL MEETING.

<sup>98</sup> Majdandžić, Rodik & Eppert (DOOR) (2021, December). Baseline Assessment Report.

<sup>99</sup> European Commission, Directorate-General for Energy, Bouzarovski et al. (2020). Towards an inclusive energy transition in the European Union: Confronting Energy Poverty amidst a Global Crisis.

<sup>100</sup> NN 111/2021, Article 26.





be recognised as energy communities under the current definitions as only non-profit organisations would be eligible. There are limitations placed on the decision-making rights and the type of membership that medium and large companies can take up. It also is not clear whether there is any regulatory oversight by a specific national authority. And while the IEMD doesn't put any limitations on geographical scope of allowed activities, the Croatian law seems to limit CECs to "the exchange" of energy that is produced and consumed by the community, within a certain spatial scope. This limitation might impede CECs' rights to take up activities across the energy sector.<sup>101</sup>

RECs are defined under the Renewable Energy Sources and High-Efficiency Cogeneration Act.<sup>102</sup> The definition is a copy-paste of the RED II definition. At the moment, it does not provide any further specification on what the different elements mean in the national context.

### RECs Enabling frameworks for Energy Communities

With the Renewable Energy Sources and High-Efficiency Cogeneration Act, the Croatian government communicates its recognition citizen's right to participate in RECs and that it aims to identify and address any obstacles to their development. The Act provides an enabling framework for RECs under Article 52. In line with the RED II, the Croatian framework aims to promote and facilitate development of RECs and to ensure that participation is a possibility for vulnerable and low-income households. However, the current framework merely

copies the RED II. Because the RED II refrains from providing concrete details on how to achieve inclusive participation and empowerment, further elaboration is needed at the Member State level. Croatia's framework on energy communities therefore needs to be expanded with by-laws.

### National Energy and Climate Plan

The Croatian NECP aims to support development of energy communities through capacity building, streamlining of administrative procedures, information campaigns and "if necessary" an action plan for development of RECs.<sup>103</sup> It does not recognise that energy communities can also play a role in contributing to the implementation of certain policies and measures to reach objectives such as awareness raising among citizens and reduction of energy poverty. The Croatian NECP, in general, lacks detailed policies and measures aimed at the promotion of energy communities.<sup>104</sup>

With regards to energy poverty, the plan does not include a comprehensive analysis of the country's challenges with the issue, as noted in the Commission's evaluation.<sup>105</sup> It doesn't report the number of households struggling with energy poverty and does not recognise citizen participation in the energy system as a way forward to tackle vulnerability. Even though the plan introduces the intention to develop a programme for eliminating and monitoring energy poverty, no concrete details on specific measures, objectives or funds needed for its implementation are provided.<sup>106</sup>

<sup>101</sup> REScoop.eu (s.d.). Transposition Tracker. Croatia - REC/CEC definitions.

<sup>102</sup> NN 138/21, Article 4.

<sup>103</sup> Republic of Croatia (2019, December). Integrated National Energy and Climate Plan for the Republic of Croatia for the period 2021-2030, p. 117.

<sup>104</sup> Republic of Croatia (2019, December). Integrated National Energy and Climate Plan for the Republic of Croatia for the period 2021-2030.

<sup>105</sup> SWD(2020) 910 final.

<sup>106</sup> Climate Action Network (CAN) Europe (2020). Tackling Energy Poverty through National Energy And Climate Plans: Priority or Empty Promise?



## Long Term Renovation Strategy

Croatia's *Long-Term Strategy for National Building Stock Renovation by 2050*, published in December 2020, acknowledges that the country lacks a definition on energy poverty and a methodology for determining the issue. The threat of energy poverty, though, is mentioned as a "specific problem area."<sup>107</sup> It repeats the intention stated in the NECP to prepare, adopt and implement a comprehensive programme to tackle energy poverty. And additionally introduces a number of policy initiatives to address the renovation of family houses, worst performing and multi-apartment buildings with specific support for energy poor or vulnerable households.

The Croatian government took some steps in this direction with amendments to the Energy Renovation Programme for Family Houses and publication of the draft *Program to fight energy poverty which includes the use of renewable energy sources in residential buildings in subsidised areas and areas of special state concern for the period until 2025*.<sup>108</sup> The latter is aimed at reducing energy poverty and vulnerability through targeted renovation of buildings owned and managed by the Central State Office for Renovation and Housing. It also aims to contribute to capacity building for energy poverty alleviation; establishing a model for energy costs and reducing emissions and consumption in energy poor and vulnerable households.<sup>109</sup> The draft programme does not mention energy communities or citizen empowerment.

<sup>107</sup> Republic of Croatia, Ministry of Physical Planning, Construction and State Assets (2020, December). *Long-Term Strategy for National Building Stock Renovation by 2050*, page 70.

<sup>108</sup> Republika Hrvatska (2021, December). *Program suzbijanja energetske siromaštva koji uključuje korištenje obnovljivih izvora energije u stambenim*

## 5.1.1. Lessons learned from Croatia

While Croatia has seen some progress in recent years, there is still a long road ahead when it comes to meaningfully addressing the root causes of energy poverty and recognising citizens as active participants in the energy system.

Like most countries within the EU, legislation and regulation is not (yet) adapted to accommodating relatively small, decentralised players such as energy communities. Croatian community energy initiatives encounter significant administrative challenges, inflexibility when it comes to business models, a lack of access to financial resources and a lack of overall recognition of what constitutes an energy community. This has led to some significant gaps in Croatian legislation on CECs and RECs, which is complex and ambiguous for citizens to understand. ZEZ, the Croatian community energy partner in CEES, highlights that such regulatory uncertainty creates challenges to set up an energy community, manage its operations once it's running and act on energy poverty.

In turn, the basis for any meaningful strategy towards a just energy transition is missing: an understanding of the needs and situation of those experiencing energy vulnerability and poverty. As long as this is missing, it remains hard to envision other concrete steps to set in motion a just transition. To date, this gap has resulted in discrepancies between social and energy policy, making accessibility for vulnerable households even more challenging. For instance, is that people lose their unemployment

zgradama na potpomognutim područjima i područjima posebne državne skrbi za razdoblje do 2025. godine

<sup>109</sup> Republic of Croatia, Ministry of Physical Planning, Construction and State Assets (2020, December). *Long-Term Strategy for National Building Stock Renovation by 2050*.



status (and entitlements) when they join a cooperative.<sup>110</sup> This is a major obstacle within the Croatian law on Cooperatives and creates barriers for developing cooperatives and their inclusiveness towards vulnerable groups.

## 5.2 France

### Energy poverty in France

The EPOV indicates France is “one of the most active countries in terms of research and policies in the field of energy poverty.”<sup>111</sup> Since 2010, it has had an official definition in place: the Grenelle II Act defines energy poverty as “a situation in which a person has difficulties obtaining the necessary energy in their home to meet their basic needs because of inadequate resources or living conditions.”<sup>112</sup>

In response to the Grenelle II Act, many programmes and schemes were introduced to identify and monitor the issue. This has resulted in more data on the specificities of energy poverty in France. ONPE, the National Observatory on Energy Poverty, collects and shares such data in an annual monitoring report. The most recent dashboard shows 20% of French citizens stated they were unable to keep adequately warm during the winter of 2020-21. Among those citizens, 40% believed this is due to poor thermal insulation of their homes; 36% linked it to financial constraints. In 2020, 10.5% of

French citizens spent more than 8% of their income on energy bills.<sup>113</sup> Compared to EU averages, France scores better on energy poverty indicators: EUROSTAT data for 2020 show 6% of French citizens were unable to keep their home adequately warm vs the EU average of 7.4%.<sup>114</sup> The share of the population with arrears on utility bills was 5.4% compared to the EU average of 6.5%.<sup>115</sup> Most indicators remained stable over the past decade.<sup>116</sup>

Initially, policies focussing on tackling energy poverty were mainly dealing with arrears on energy bills. Over the years, more effort was put into tackling other key drivers of energy poverty, with the French government implementing a wide range of policies, such as the Social funds for Energy Renovation, the Living Better Programme and Energy Vouchers.<sup>117</sup>

### Definitions of RECs and CECs

In 2015, the first provisions incentivising financial participation of local actors in renewable energy projects were introduced in the Energy Transition Law for Green Growth. This law simplified juridical conditions for creating a renewable energy production project owned (in part) by citizens or municipalities. Ever since, the community energy movement in France has been steadily growing.<sup>118</sup> According to the latest available data from Energie Partagée, there are now about 280 citizen-owned renewable energy projects across the country.<sup>119</sup>

<sup>110</sup> Božić, Šprajc & Sribljinić (2019, December). Croatian co-operatives' story of revival: Overcoming external obstacles.

<sup>111</sup> European Commission, Directorate-General for Energy (2020). Member state reports on energy poverty 2019, pg 41.

<sup>112</sup> LOI n° 2010-788 du 12 juillet 2010.

<sup>113</sup> Observatoire National de la Précarité Énergétique (ONPE) (2022, January). Tableau de bord de la précarité énergétique.

<sup>114</sup> EUROSTAT (2022, 22 August). Inability to keep home adequately warm - EU-SILC survey.

<sup>115</sup> EUROSTAT (2022, 22 August). Arrears on utility bills - EU-SILC survey.

<sup>116</sup> Observatoire National de la Précarité Énergétique (ONPE) (2021, November). Context and Schemes to Tackle Energy Poverty in Europe.

<sup>117</sup> European Commission, Directorate-General for Energy (2020). Member State Reports on Energy Poverty 2019.

<sup>118</sup> Sebi & Vernay (2020). Community Renewable Energy in France: The State of Development and the Way Forward.

<sup>119</sup> Énergie Partagée (s.d.). Les chiffres clés de l'énergie citoyenne.





In 2019, following the RED II definitions, the French Government, for the first time, mentioned RECs in Article 40 of the Energy and Climate Law.<sup>120</sup> This definition was essentially a copy-paste of the EU definition. The process was criticised for being too hasty and lacking sufficient consultation of stakeholders.<sup>121</sup> This was followed by an Ordinance<sup>122</sup> containing provisions on both RECs and CECs in March 2021. An Application Decree is yet to be published. This time, the criteria and principles of both EU definitions were well reflected and received further detailed elaboration. In general, however, the specification of the purpose<sup>123</sup> of these initiatives remains a copy-paste of EU legislation for both definitions.

## Enabling frameworks for Energy Communities

Even though a comprehensive enabling framework for energy communities in line with EU provisions is not yet published, France has a number of schemes in place to support energy communities and citizen-led initiatives, such as financial support for projects in their development phase, a network of “local governance” advisors across the country and a fund for renewable heating and cooling projects led by citizens and communities.

In November 2021, the French Government also published a roadmap to promote the development of citizen renewable energy. The roadmap was set up with the help of key stakeholders, who analysed existing citizen governed energy projects, identified their obstacles and

challenges, and based on this, proposed 10 measures to support their development. These measures include a target of 1000 new locally governed renewable energy projects involving communities and citizens by 2028; a participatory bonus in national calls for tender; increasing the number of advisors assisting the development of citizen energy projects; launching a national communication campaign; launching a study on the impact of local ownership and support for renewable energy; and overall simplification of the financing and development of such initiatives.<sup>124</sup>

Some measures have already been put in place, others are still being developed. None of them, however, are specifically focused on increasing accessibility to community energy projects for energy poor and vulnerable consumers.

## National Energy and Climate Plan

The French government communicates the number of households in energy poverty, based on two indicators used by the National Energy Poverty Observatory (the rate of energy effort and the impression of cold). It lists a comprehensive series of targeted policies, tools and measures in relation to mobility, energy efficiency, demand response, with the primary focus being on financial support for households by way of a “chèque énergie”. It explains how funding to finance energy poverty programmes will be organised through energy companies’ energy efficiency schemes.<sup>125</sup>

<sup>120</sup> Sebi & Vernay (2020). Community Renewable Energy in France: The State of Development and the Way Forward.

<sup>121</sup> Toporek & Provost (Client Earth) (2020). Guidance for National Transposition of New EU Directives relating to Renewable Energy Prosumers.

<sup>122</sup> Ordonnance n° 2021-236 du 3 mars 2021.

<sup>123</sup> EU legislation states for both RECs and CECs that their primary purpose is “to provide environmental,

economic or social benefits for its shareholders or members or for the local areas where it operates, rather than financial profits.” (REScoop.eu & ClientEarth (2020). Energy Communities under the Clean Energy Package).

<sup>124</sup> Ministère de La Transition Écologique et Solidaire (2021). 10 Mesures en faveur des Énergies Renouvelables Citoyennes.

<sup>125</sup> European Commission, Directorate-General for Energy, Bouzarovski et al. (2020). Towards an inclusive



However, the Commission's assessment of the French NECP urges the country to put more effort in mitigating the risks of energy poverty. The NECP also does not link energy communities to energy poverty alleviation objectives, even though the country already has a large number of community energy projects, some of which are particularly investigating ways to tackle the issue. The lack of consideration for socially innovative solutions and support for social enterprises in the fight against energy poverty, was also indicated by the Commission's assessment.<sup>126</sup> France's *Programmation Pluriannuelle de l'Énergie*, which together with the *Stratégie Nationale Bas-Carbone* formed the basis of the NECP, also did not connect citizen participation in the energy transition with issues of social justice. It merely considered citizen participation in local renewable energy projects as important for public acceptance.<sup>127</sup>

## Long Term Renovation Strategy

The French LTRS is overall considered as ambitious and comprehensive. However, it does not mention or recognise energy communities, the potential of citizen-led initiatives or citizen empowerment as a way to address issues related to energy efficiency and renovations for energy poor and vulnerable citizens.

### 5.2.1 Lessons learned from France

In recent years, community energy has received growing political attention in France. While political polarisation and local opposition issues are on the rise, the added value of local ownership and governance over renewable energy

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energy transition in the European Union : confronting energy poverty amidst a global crisis.

<sup>126</sup> SWD(2020) 909 final.

<sup>127</sup> Ministère de La Transition Écologique et Solidaire. Stratégie Française pour l'Énergie et le Climat.

projects are considered to offer potential for reconciliation.<sup>128</sup>

The 10 measures in the roadmap for community energy development are seen as a strong and ambitious political signal. Aside from challenges that remain in matching embedded targets with more clearly defined tools and measures,<sup>129</sup> recognition of the need to increase accessibility to low-income and vulnerable households is missing from the roadmap.

What could be learned from the French case is that, even a country with a strong community energy movement and extensive policies and research on energy poverty, addressing them together requires dedicated effort. Energy justice through community energy, in that sense, does not happen by itself. It requires an understanding of why low-income and vulnerable households remain largely underrepresented in RECs, why they have been far less able to benefit from the energy transition and how, consequently, these issues need to be addressed. Even though general support schemes for energy communities may provide the space for these projects to also act on energy poverty, inclusiveness should be specifically addressed as a priority.

## 5.3 Portugal

### Energy poverty in Portugal

Until recently Portugal did not have energy poverty on the political agenda. Apart from social tariffs for vulnerable consumers and a recent availability of funding for energy communities under the Recovery and Resilience Plans, direct incentives to work on the issue have been lacking. With no definition or official

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*Programmation Pluriannuelle de l'Énergie 2019-2023, 2024-2028.*

<sup>128</sup> Rüdinger (2022, 3 February). Community Energy: a Strong Political will that calls for Additional Resources.

<sup>129</sup> Rüdinger (2022, 3 February). Community Energy: a Strong Political will that calls for Additional Resources.



indicators of energy poverty, organisations that intend to tackle energy poverty struggle to access data and design effective and efficient measures.

EUROSTAT data show 17.5% of Portuguese citizens were unable to keep their home adequately warm in 2020, almost 10% more than the EU average.<sup>130</sup> In terms of the share of the population with arrears on utility bills, Portugal is doing better than the EU average with 3.5% against 6.5% in 2020.<sup>131</sup> Both numbers have decreased over the past decade.

## Definitions of RECs and CECs

The concept of Renewable Energy Communities (*Comunidades de Energia Renovável*) was introduced in Portuguese law in 2019 in the Law on Renewables Collective Self-Consumption<sup>132</sup>. This law did not include a framework for Citizen Energy Communities (*Comunidades de Cidadãos para a Energia*), which only followed at the beginning of 2022 in the Law Organising the Electricity System<sup>133</sup>.

The provisions on RECs are in general copy-pasting RED II provisions. This leads to insufficient legal clarity on the potential activities RECs can engage in and on their specific role in the Portuguese energy system. The CEC definition remains basic as well as it does not elaborate on what each term means at the national level. Both definitions contain deficiencies, going stricter than EU legislation (ex. using geographic proximity as a precondition for effective control and eligibility in RECs) or remaining too flexible (ex. allowing for projects to be owned by third parties as long as it is for the benefit and at the service of the REC,

which could lead to a watering down of the concept). This may lead to confusion and limit the development of energy communities over time.<sup>134</sup>

## Enabling frameworks for Energy Communities

With regards to enabling frameworks, renewable energy communities benefit from exemptions from “prior control/communication, registration and operating requirements, depending on the installed capacity or the use of the public network for injection of electricity in case of self-consumption.”<sup>135</sup> Portugal also ensures that citizens are entitled to participate in RECs. Work remains to be done to fully develop the required enabling frameworks and sufficiently address the specificities of RECs when designing support schemes.<sup>136</sup> Especially with regards to facilitating access to vulnerable households and supporting RECs’ potential to address energy poverty, further concrete steps and guidelines are required. The Portuguese NECP and LTRS indicate that the government intends to tackle these issues.

## National Energy and Climate Plan

In the Portuguese NECP, Energy communities are mentioned multiple times and are often recognised for their role to help reduce inequalities and fight energy poverty:

*Energy communities will play a fundamental role in promoting social innovation, capacity-building among citizens in relation to the energy sector and its problems and local social and economic development. They will also*

<sup>130</sup> EUROSTAT (2022, 22 August). Inability to keep home adequately warm - EU-SILC survey.

<sup>131</sup> EUROSTAT (2022, 22 August). Arrears on utility bills - EU-SILC survey.

<sup>132</sup> Decreto-Lei n.º 162/2019

<sup>133</sup> Decreto-Lei n.º 15/2022

<sup>134</sup> REScoop.eu (s.d.). Transposition Tracker. Portugal REC/CEC definitions.

<sup>135</sup> SWD(2022) 0149 final.

<sup>136</sup> COME RES (2021, April). Policy Brief #1. Renewable Energy Communities - Are we nearly there?



*simultaneously contribute significantly toward mitigating the problem of energy poverty.*<sup>137</sup>

Portugal aims to, in the short term, provide support and information programmes to encourage their development. The plan also specifically focuses on supporting the establishment of energy communities in partnership with municipalities, especially with those that have a higher rate of energy poverty. The Commission gave a positive assessment on the progress that the plan has made in terms of simplifying administrative procedures and on promotion of self-consumption and renewable communities.<sup>138</sup>

Portugal's NECP does not provide a number of households affected by energy poverty. However, it mentions the intention to develop a Long-Term National Strategy to Combat Energy Poverty, which should "provide a state of play, develop indicators and monitoring strategies, set energy poverty reduction goals (medium and long term) at national, regional and local level, and propose specific measures and forms of financing."<sup>139</sup> At the time of writing, this strategy has not yet been published. The draft version does however strongly recognise the growing issue of energy poverty and sees energy communities as a means to empower citizens and tackle energy poverty.<sup>140</sup>

### Long Term Renovation Strategy

Combatting energy poverty and improving the quality of life is one of the main axes of Portugal's LTRS. The overall

strategy has an ambition level which is considered high by the Commission.<sup>141</sup> It presents a dedicated set of measures to tackle energy poverty, including promoting the participation of energy poor and low-income households in renewable energy communities.<sup>142</sup>

There is also an overall commitment to increase local production of renewable energies, through for example self-consumption and energy communities, which is promoted along with policies and actions intended to facilitate the transformation of building stock into nearly zero energy buildings (NZEB). Concrete actions to support the development of energy communities include the implementation of an electronic information platform.<sup>143</sup>

### Recovery and Resilience Plan

Important to mention as well is that the Portuguese Recovery and Resilience Plan includes five concrete schemes, of which two are of particular relevance. First, the Energy Efficiency Voucher, targeted at households in energy poverty that benefit from the Social Tariff.<sup>144</sup> Second, a dedicated programme for RECs and Collective Self-Consumption, through which the government aims to promote development of electricity generation from renewables by stimulating RECs and Collective Self-Consumption initiatives. Specifically, the programme intends to lead to an average of at least 30% reduction in primary energy consumption of buildings and contribute to increasing capacity of self-consumption and/or RECs in residential, central administration and

<sup>137</sup> Republic of Portugal (December, 2019). National Energy and Climate Plan 2021-2030 (NECP 2030), page 69.

<sup>138</sup> SWD(2020) 921 final.

<sup>139</sup> SWD(2020) 921 final, page 6.

<sup>140</sup> Republic of Portugal (s.d.). Proposal for a Long-Term National Strategy to Combat Energy Poverty.

<sup>141</sup> SWD(2021) 365 final/2.

<sup>142</sup> Council of Ministers Resolution No 8-A/2021.

<sup>143</sup> Council of Ministers Resolution No 8-A/2021.

<sup>144</sup> A limitation of this program is that it is directed only to home-owners, not tenants. Applications to this programme have been slower than the government expected. (Silvaes (2022, 24 May). Empresas que recusem Vales Eficiência podem ser afastadas do programa).



services sectors by at least 93 MW. The programme also aims to contribute to the reduction of the number of households in energy poverty. It doesn't present any concrete details about this point.

### 5.3.1 Lessons learned from Portugal

In general, Portugal has made good progress on both the topics of energy communities and energy poverty and their interlinkages. The country's NECP can be considered a good example of integrating both as a policy priority. Nevertheless, energy communities in Portugal are currently still challenged by a significant number of barriers. The Portuguese community energy partner in CEES Coopérnico, experiences its context as demanding and not sufficiently facilitating for smaller, alternative players in the energy market. This makes it hard to fulfil a social role. For policymakers it now comes down to translating the NECP ambitions into concrete actions.

## 5.4 United Kingdom

The UK, as the European birthplace of energy poverty research, has many programmes, regulations and schemes in place to assist and protect people in energy poverty.<sup>145</sup> Community energy, too, is supported by a variety of government programmes.<sup>146</sup> However, on the 31st of January 2020 the UK withdrew from the European Union. Therefore, the country is no longer obliged to transpose European legislation into national law.

<sup>145</sup> See for example: <https://www.gov.uk/government/collections/fuel-poverty-statistics>

<sup>146</sup> See for example: <https://www.gov.uk/guidance/community-energy#what-is-community-energy>

## 5.5 Takeaways and recommendations for Member States

The community energy movement is steadily growing across the EU. Member States are making progress in providing instruments to tackle energy poverty and advancing possibilities for citizens to actively participate in the energy sector. To date, examples of energy communities addressing energy poverty remain scarce. Also notable is that a declining trend in energy poverty indicators may have been slowed or inverted by the impacts of COVID-19 and the ongoing energy price crisis.<sup>147</sup> Across the EU, work remains to be done to address the root causes of energy vulnerability. CEES therefore recommend all Member States to:

1. **Understand why vulnerable households haven't been able to participate in the energy transition in your country.**

Understanding the socio-economic realities of low-income and vulnerable households is the first step in creating effective energy justice strategies. Providing mechanisms to emerge from that reality is next. More research is needed to identify specific characteristics of vulnerability contexts in each Member State. Common forms of scarcity are time, finances, experience, supportive government schemes and knowledge about opportunities. To resolve these issues, policies and programmes need to tackle discriminating structures that lead to and maintain these forms of scarcity. This calls for more and better integration between social and energy policies.<sup>148</sup>

<sup>147</sup> Batlle (2020). Measures to tackle the COVID-19 outbreak impact on energy poverty.

<sup>148</sup> Hanke & Lowitzsch (2020). Empowering Vulnerable Consumers to Join Renewable Energy Communities—Towards an Inclusive Design of the Clean Energy Package. page 8.





To date, there is no sufficient alignment of social and energy policies in most Member States, which, instead of leading to empowerment, may result in households being trapped in their context of vulnerability. For example, becoming a member of an energy community project may in some cases jeopardise low-income and vulnerable households' right to social welfare programmes as it is considered a form of asset formation.<sup>149</sup> In Croatia, unemployed people lose their unemployment status and entitlements when they join a cooperative. While joining an energy community project may lead to long-term benefits such as financial capital, energy savings, learning new skills and creating stronger connections with the community (i.e. empowerment), such rules may prevent those most vulnerable from accessing those benefits. Such contradictions hamper efforts of linking energy poverty alleviation with collective solutions and should thus be dealt with.

To identify vulnerabilities and discriminating structures, which may lead to these misalignments, it is important to provide spaces in the policymaking process that bring together representatives of vulnerable groups and social economy actors. Member States are also recommended to align measures to help vulnerable and low-income households participate in RECs, with broader efforts to develop measures to address energy poverty under Article 28 of the IEMD.<sup>150</sup>

## 2. Identify barriers for RECs to address energy poverty and increase inclusiveness

Why aren't there more RECs acting on energy poverty or specifically seeking to increase their inclusiveness towards more vulnerable social groups? First, continuing on with the previous recommendation, this is partly due to the wide-spread lack of understanding of what it means to live in energy poverty or vulnerability and consequently also how to effectively act on it.<sup>151</sup>

Second, it remains an overall challenging endeavour to set up an energy community in an energy system which is not made to facilitate relatively small and decentralised players. They often have to go through long and complicated administrative and legal processes, which are mostly designed with big businesses in mind. This also creates a challenging environment for energy communities to strengthen their inclusiveness towards more vulnerable social groups. Expecting them to automatically advance energy justice is therefore unfair.

The Recitals to the RED II specifically state the importance of assessing how participation of vulnerable consumers can be enabled. We recommend that Member States, when assessing barriers for the development of RECs at the national level, as a priority pay attention to identifying and lowering the barriers which are preventing energy communities from becoming more accessible to vulnerable and low-income households, and tenants.<sup>152</sup>

<sup>149</sup> Hanke & Lowitzsch (2020). Empowering Vulnerable Consumers to Join Renewable Energy Communities—Towards an Inclusive Design of the Clean Energy Package.

<sup>150</sup> REScoop.eu & ClientEarth (2020). Energy Communities under the Clean Energy Package.

<sup>151</sup> Guyet, Hanke & Feenstra (2021, March). Energy Communities and Energy Poverty: Moving towards a New Social and Ecological Contract?

<sup>152</sup> REScoop.eu & ClientEarth (2020). Energy Communities under the Clean Energy Package.



### 3. Consider embedding explicit aims to alleviate energy poverty and address vulnerable households in definitions of RECs

Next to identifying barriers, Member States should support or incentivise RECs to act on energy poverty or improve their inclusiveness. Both the IEMD and the RED II do not provide details on how to concretely achieve social innovation through advancing community energy. When transposing the definitions and enabling frameworks for CECs and RECs into national legislation, Member States should elaborate on how these will be implemented in their specific context. We recommend that Member States embed energy poverty alleviation and inclusiveness in the national definitions of CECs and RECs as a key objective of energy communities. Examples from in- and outside the EU can offer guidance on how to achieve this.

The example of the Greek law on energy communities was already mentioned above. Greece specifically integrated energy poverty alleviation as one of the core objectives of an energy community in their national legal definition. Energy communities can also supply renewable energy to vulnerable households without them necessarily becoming a member of the energy community, as these initiatives can engage in “actions to support vulnerable consumers to address the energy poverty of citizens living below the poverty line within the Region in which the energy community’s headquarters are located, regardless of whether they are members of the energy community, including offsetting energy needs,

<sup>153</sup> REScoop.eu & ClientEarth (2020). Energy Communities under the Clean Energy Package.

<sup>154</sup> Guyet, Hanke & Feenstra (2021, March). Energy Communities and Energy Poverty: Moving towards a New Social and Ecological Contract?

<sup>155</sup> REScoop.eu & ClientEarth (2020). Energy Communities under the Clean Energy Package.

performing energy upgrades or other actions that reduce energy consumption”.<sup>153</sup>

### 4. Incentivise energy communities to act on energy poverty and/or improve participation of vulnerable households.

Member States are encouraged to make a clear taxonomy that differentiates between those energy market players that advance energy justice, and those that don’t. Social impact could be made an obligatory indicator to access low-interest or zero-loan financial support to invest in renewable energy sources<sup>154</sup>. Additional incentives to RECs that relax or remove participation requirements for vulnerable and low-income households may, on the other hand, be a way forward to remove barriers for vulnerable and low-income households to join a community energy project.<sup>155</sup> Flexible membership rules could, for instance, reflect different investment capacities.<sup>156</sup> Another example of how membership rules can be eased, can be found in France. In its implementation of the RED II, social housing providers are encouraged to offer renewable energy automatically to their residents by making them members of an energy community by default.<sup>157</sup>

### 5. Recognise energy communities as part of the solution, not as the final resort

Facilitating and stimulating the participation of citizens and communities in designing and delivering ambitious climate and energy policies will be key to tackle some of the most pressing issues we are facing today. While it’s important

<sup>156</sup> Guyet, Hanke & Feenstra (2021, March). Energy Communities and Energy Poverty: Moving towards a New Social and Ecological Contract?

<sup>157</sup> Guyet, Hanke & Feenstra (2021, March). Energy Communities and Energy Poverty: Moving towards a New Social and Ecological Contract?



to recognise the potential role that energy communities can play in tackling energy poverty and advancing energy justice, it is beyond their reach to solve social justice issues. We need big and bold actions from decision makers on structurally tackling social injustices across all EU Member States. Policymakers should create the right frameworks that enable alternative measures for managing the energy system, compared to those tried, tested and failed to deliver for people and the planet.



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