

# Q&A: What are ‘citizen’ and ‘renewable’ energy communities?

## Introduction

The final Clean Energy Package (CEP) contains two definitions of energy community: Citizen Energy Community (CEC) which is contained in Directive (EU) 2019/944 (recast Electricity Directive), and Renewable Energy Community (REC), which is contained in Directive (EU) 2018/2001 (the recast Renewable Energy Directive). They are similar, but not totally consistent.

| Article 2(16) Recast Renewable Energy Directive ‘Renewable Energy Community’   | Article 2(11) Recast Electricity Directive ‘Citizen Energy Community’   |
|--|---|
| <p>A legal entity:</p> <ul style="list-style-type: none"> <li>(a) which, in accordance with the applicable national law, is based on <b>open and voluntary participation</b>, is <b>autonomous</b>, and is <b>effectively controlled by shareholders or members that are located in the proximity</b> of the renewable energy projects that are owned and developed by that legal entity;</li> <li>(b) the shareholders or members of which are <b>natural persons, SMEs or local authorities</b>, including municipalities;</li> <li>(c) the <b>primary purpose</b> of which is to provide <b>environmental, economic or social community benefits</b> for its shareholders or members or for the local areas where it operates, <b>rather than financial profits</b>.</li> </ul> | <p>A legal entity that:</p> <ul style="list-style-type: none"> <li>(a) is based on <b>voluntary and open participation</b> and is <b>effectively controlled by</b> members or shareholders that are <b>natural persons, local authorities, including municipalities, or small enterprises</b>;</li> <li>(b) has for its <b>primary purpose to provide environmental, economic or social community benefits</b> to its members or shareholders or to the local areas where it operates <b>rather than to generate financial profits</b>; and</li> <li>(c) <b>may engage in</b> generation, including from renewable sources, distribution, supply, consumption, aggregation, energy storage, energy efficiency services or charging services for electric vehicles or provide other energy services to its members or shareholders;</li> </ul> |

There are many open questions regarding what these definitions mean, their relationship between each other and other concepts in the CEP. The aim of this question and answer briefing is to address many of these questions, in order to develop a common understanding about how these new concepts should be communicated, transposed into national legislation, and implemented at national level.

## General – energy communities within the REScoop.eu context

### 1. What does REScoop.eu mean when it is talking about ‘energy communities’?

**Answer:** For REScoop.eu, an energy community is a way to ‘organise’ citizens that want to cooperate together in an energy-sector related activity based on open and democratic

participation and governance, so that the activity can provide services or other benefits to the members or the local community. In this sense, energy communities represent an alternative type of market actor, and a different way/philosophy to do business, which is now acknowledged by the CEP. The primary purpose of energy communities is to create social innovation - to engage in an economic activity with non-commercial aims.

REScoop.eu considers Renewable Energy Source Cooperatives (REScoops) to be a type of energy community that adheres specifically to criteria based on the seven [International Cooperative Alliance principles](#).

## 2. Are energy communities about technical smart energy systems innovations?

**Answer:** Not primarily, no. Any market actor can develop business models to promote innovative technologies to facilitate consumer participation in the market (e.g. collective self-consumption, energy sharing, development of micro-grids and green energy districts/neighborhoods). The main aim of energy communities is to self-organise around an energy-related activity (e.g. generation and sale of renewable energy) in order to provide services or other socio-economic benefits to the members and/or the local community. Smart energy systems innovations can be used as one of the tools to achieve these aims – but they are not the aims in and of themselves.

## 3. What can energy communities do?

**Answer:** As energy communities, REScoops can – and do – perform activities across the energy sector. This includes: renewable energy generation, provision of energy efficiency services (including buildings renovations), retail supply, distribution (of both heat and electricity), storage, flexibility services, aggregation, and electro-mobility services.

## 4. What differentiates energy communities from other traditional commercial market actors?

**Answer:** Several inherent ‘organisational’ characteristics differentiate energy communities from traditional commercial market actors:

- Purpose: revenues from economic activities go to providing services to members and/or for environmental and socio-economic benefits to the local community.
- Ownership and control: users of the services or the local inhabitants impacted by the project/activity (local citizens, micro/small/medium\* sized businesses, or local authorities) participate economically, as well as exercise strategic control and direction over the community.
- Governance/decision making: internal decisions are based on democratic governance, and ensuring that the ‘autonomy’ of the community is maintained (i.e. that investment or decision making by one or a small group of individual members or partners does overtake the collective will of the members).

## 5. What are the advantages of energy communities? What can they offer that other traditional commercial market actors cannot?

**Answer:** Energy communities:

- Provide citizens fair and affordable access to local, clean renewable energy resources and other energy-related services, including vulnerable and energy poor households;
- Offer consumers the choice to take control and responsibility for the self-provision of their energy needs, furthering energy democracy;

- Create investment opportunities for citizens and local businesses;
- Offer local communities the ability to generate revenue that stays in the local economy to address socio-economic needs of the community and to invest in energy efficiency; and
- Generate public acceptance of renewables and other clean energy technologies by allowing citizens to invest and participate in the decision making of the projects.

**6. What common challenges do energy communities face due to their differences with other market actors?**

**Answer:**

- Difficulty raising upfront finance from local citizens;
- Dependence on volunteers and non-energy professionals;
- Lack of experience navigating procedural and administrative hurdles to accessing the market;
- Complexities of using democratic internal governance and local engagement strategies;
- Use of legal forms that are unfamiliar to traditional lenders and other energy companies; and
- Lack of project portfolios make it hard to compete in tenders.

## Energy communities in the Clean Energy Package (CEP)

### Identifying an energy community

**7. How does the CEP frame/describe energy communities?**

**Answer:** The CEP contains two definitions of energy communities: ‘Citizen Energy Communities’ and ‘Renewable Energy Communities’. Both of these definitions are framed as *a particular way to organise collective action around a particular energy-related activity* – namely through a legal entity. Specifically, energy communities organise around specific ownership, democratic governance and a non-commercial purpose (as opposed to traditional market actors).

**8. How do I determine whether a particular legal entity is an energy community?**

**Answer:** One must assess the governance, membership/ownership, and primary purpose of the legal entity claiming to be an energy community, looking at its statutes. Member States may also designate a specific legal entity to constitute an energy community. If the statutes conform to the EU definition and/or the legal form designated by the Member State, the legal entity would be eligible to be considered an energy community. Below is a comparison of the different eligibility criteria between the citizen energy community and renewable energy community definitions.

## Comparing eligibility criteria: Renewable Energy Communities & Citizen Energy Communities

|  | in the <b>Renewables Directive</b><br>Renewable Energy Communities  | in the <b>Electricity Directive</b><br>Citizen Energy Communities  |
|--|---|--|
| <b>ELIGIBILITY</b><br>   | <b>Members/shareholders that are:</b> <ul style="list-style-type: none"> <li>• Natural persons.</li> <li>• Local authorities (including municipalities).</li> <li>• Micro-, small and medium enterprises (SMEs)</li> </ul>                                    | <b>Members/shareholders that are:</b> <ul style="list-style-type: none"> <li>• Natural persons.</li> <li>• Local authorities (including municipalities).</li> <li>• Micro- and small enterprises</li> <li>• Medium and large enterprises.</li> </ul>   |
| <b>COMMUNITY/<br/>NON-COMMERCIAL<br/>PURPOSE</b><br>alternative to<br>for-profit<br> | <b>Primary purpose:</b><br>Environmental, economic, social<br>community benefits for members or<br>local areas of operation rather than<br>financial profits.   | <b>Primary purpose:</b><br>Environmental, economic, social<br>community benefits for members or<br>local areas of operation rather than<br>financial profits.  |
| <b>OPEN &amp; VOLUNTARY<br/>MEMBERSHIP</b><br>                                       | <ul style="list-style-type: none"> <li>• Participation must be voluntary.</li> <li>• Participation in renewable energy generation projects should be open to all potential local members based on non-discriminatory criteria.</li> </ul>                     | <ul style="list-style-type: none"> <li>• Participation must be voluntary.</li> <li>• Participation should be open to all potential members based on non-discriminatory criteria.</li> </ul>  |
| <b>DEMOCRATIC GOVERNANCE<br/>&amp; OWNERSHIP</b><br>                                 | <ul style="list-style-type: none"> <li>• Must be autonomous - no disproportionate control by individual members/outside partners in decision-making.</li> <li>• Effective control by members/shareholders that are in 'proximity' to RES projects.</li> </ul> | <ul style="list-style-type: none"> <li>• No autonomy principle, but decision-making powers should be limited to members not involved in large scale commercial activity and where the energy sector does not constitute a primary area of economic activity.</li> <li>• Effective control by members/shareholders that are natural persons, local authorities (including municipalities) and small and micro-enterprises.</li> </ul> |

### 9. What does the CEP say about the different governance principles governance that apply to 'citizen energy communities' and 'renewable energy communities'?

Answer:

- **'Open participation'**: The recitals to the Renewable Energy Directive state that *"to ensure broad participation, participation in renewable energy communities should be open to all potential local members based on objective, transparent and non-discriminatory criteria."* This means that as long as they are accepting new members, renewable energy communities should not be able to develop arbitrary criteria or exclude anyone that is willing to undertake the responsibilities of membership. The recitals to the Electricity Directive go even further, stating that *"membership of citizen energy communities should be open to all categories of entities."*
- **'Voluntary participation'**: The Electricity Directive states that *"household customers should be allowed to participate voluntarily in community energy initiatives as well as to leave them, without losing access to the network operated by the community energy initiative."* Article 16 also states that members should be able to leave a citizen energy community consistent with their right to switch suppliers.
- **'Autonomy'**: The recitals to the Renewables Directive state that *"to avoid abuse,"* renewable energy communities *"should be capable of remaining autonomous from individual members and other market actors that participate in the community as members or shareholders, or who cooperate through other means such as investment."* This means that internal decision making should be based on democratic governance that ensures all members are adequately represented (regardless of their amount of investment), and that business partnerships with traditional market actors should not undermine the community's independence. The autonomy principle is not contained in the citizen energy community definition.

- ‘Effective control’: Effective control is not defined explicitly in either the Renewable Energy Directive or the Electricity Directive. It is for Member States to define, consistent with their existing company laws. However:
  - a. The recitals to the Electricity Directive state that the *“decision-making powers within a citizen energy community should be limited to those members or shareholders that are not engaged in large-scale commercial activity and for which the energy sector does not constitute a primary area of economic activity”*. This means that medium and large companies, both inside and outside the energy sector, should not be able to control or direct citizen energy communities, either through their investment or membership.
  - b. For renewable energy communities, effective control must rest with members that are *“in proximity to the projects owned and developed by the community.”* This means that members that are outside this proximity should not be able to control or direct citizen energy communities, either through their investment or membership.

#### 10. What does the CEP say about the ‘primary purpose’ of an energy community?

**Answer:** Both definitions of energy communities state that *‘the primary purpose of to provide environmental, economic or social community benefits for its shareholders or members or for the local areas where it operates, rather than financial profits’*. This means that while some return on investment to members is foreseen, the generation of revenues from the community’s activities should be primarily used to provide services to the members, to further the community’s activities, to reduce energy bills, or to address/invest in local socio-economic initiatives identified by the community (energy poverty, education, investment in local/public infrastructure). In contrast, a traditional market actor would engage in a specific activity with a commercial motive (i.e. selling a product or service with the primary purpose of generating profits that are then distributed to their owners/shareholders).

#### 11. How does REScoop.eu see its members fitting within the EU definitions of energy communities?

**Answer:** Generally, REScoop.eu sees its members as a subset, or type, of energy community, namely as *‘citizen energy cooperatives’* and *‘renewable energy cooperatives’*. REScoops must comply with the eligibility criteria of the EU definitions similar to all other market actors. Nevertheless, the eligibility criteria of both EU energy community definitions integrate to some extent the International Cooperative Alliance Principles (e.g. open and voluntary participation, autonomy, and non-commercial purpose). In this sense, therefore, REScoops go further than the EU level definitions – setting a gold standard for the organisation and governance of energy communities.

#### 12. Are energy communities limited to cooperatives?

**Answer:** No. Any legal form can be used as long as it conforms to the criteria that is contained in the EU definitions. Nevertheless, Member States are allowed to choose any legal form for energy communities, so a Member State could limit energy communities to cooperatives.

### 13. Would a financial cooperative ('Fin-Coop') qualify as an energy community?

**Answer:** No. The energy community definitions cover legal entities that undertake particular activities in renewables or the electricity sector. The provision of finance to other market actors involved in the energy sector is not covered.

## Relationship between energy communities and other market actors

### 14. Who can 'participate' in an energy community?

**Answer:** participants eligible to join an energy community differ:

- For citizen energy communities: natural persons, local authorities and micro, small, medium and large enterprises are eligible to participate.
- For renewable energy communities: natural persons, local authorities, and micro-, small and medium sized enterprises are eligible to participate

### 15. Who can 'control' an energy community?

**Answer:** the standard for 'who' can control an energy community differs:

- For citizen energy communities: effective control is limited to members that are natural persons, micro- and small enterprises, and local authorities. This means that medium-sized and large companies are prohibited from exercising control over a citizen energy community.
- For renewable energy communities: effective control must rest with members who are 'in proximity' to the project owned by the community. There is no reference to the size of enterprise. In addition, *renewable energy communities must remain 'autonomous' from individual members and other traditional market actors that participate in the community as members or shareholders.* This means that individual members should be prevented from having disproportionate decision making power compared to other members, ensuring a minimum level of democratic governance. In cooperatives, autonomy is usually expressed by providing each member with one vote (i.e. a one-person-one vote), and by limiting the number of shares.

### 16. Can effective control rest with only one set of actors (e.g. natural persons, local authorities, or enterprises), or could it be mixed?

**Answer:** An energy community could be effectively controlled by a mixed organisation of natural persons, local authorities and enterprises, or by only one set of these actors. However, energy communities must allow open and voluntary membership, so other actors must be able to join. Furthermore, renewable energy communities must be autonomous, which should prevent a single or small number of members (whether it be natural persons, local authorities or enterprises) from exercising disproportionate control over the community to the detriment of the other members.

### 17. Can energy companies (e.g. DSOs, ESCo's, etc.) set up energy communities?

**Answer:** Yes. However, the company must organise the energy community in a way that conforms to the eligibility criteria of the EU definitions, in particular around eligible participants, effective control, and autonomy (for renewable energy communities).

**18. Can energy companies (e.g. DSOs, ESCo's, etc.) participate in energy communities?**

**Answer:** Yes. In fact, energy communities can benefit significantly from participation of energy companies, which can bring investment and technical expertise to the community. However, for renewable energy communities, the company must not be larger than a medium-sized enterprise. Furthermore, their participation must not compromise the autonomy of the renewable energy community. If the company wants to participate in the effective control of the energy community, it must comply with the requisite requirements in each of the definitions (locality for renewable energy communities, size for citizen energy communities).

**19. Could a legal entity that is composed solely of businesses be considered an energy community?**

**Answer:** Maybe. However, energy communities must be open based on non-discriminatory criteria, so they must allow anyone who is capable and wants to join, in particular citizens. Furthermore, they must conform to eligibility and effective control requirements, which (as seen from the above) have size and locally-based (for renewable energy communities only) limitations.

**20. What are the main opportunities for energy companies (e.g. DSOs, ESCo's, etc.) to benefit from energy communities?**

**Answer:** There are a number of opportunities for energy companies to benefit from energy communities.

- Participation in energy democracy as individual member
- Co-ownership opportunities with energy communities
- Marketing of services, technology – either as member or non-member

**21. If a particular business model does not conform with the eligibility criteria of an energy community, how can it benefit from new innovative provisions in the CEP?**

**Answer:** The CEP empowers all market actors, regardless of how they are organised, to develop commercial consumer-centric business models around new activities such as renewables self-consumption, aggregation (both demand side flexibility and renewable energy sources). Furthermore, if Member States want to, they can allow other market actors – not just energy communities – to set up business models around local energy systems. In other words, traditional market actors do not need to be energy communities to benefit from the new opportunities under the CEP. All the CEP does, is guarantee that energy communities can benefit from all of these new opportunities on a level playing field with other traditional market actors.

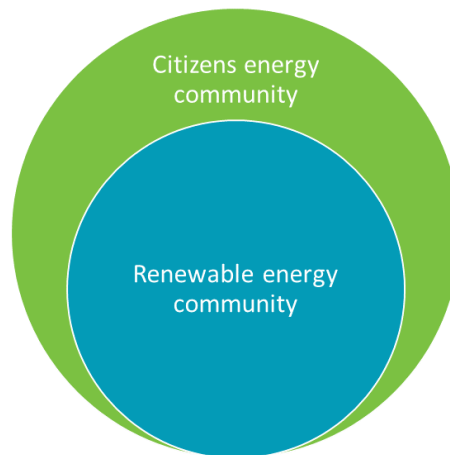
Relationship between 'citizen energy communities' & 'renewable energy communities'

**22. What is the relationship between a citizen energy community and renewable energy community?**

**Answer:** Both definitions describe a way to organise collective cooperation of an energy related activity around specific ownership, governance and a non-commercial purpose (as opposed to traditional market actors). However, due to some of their differences regarding scope of activities and eligibility criteria *renewable energy communities can generally be seen as a subset, or type, of citizen energy community.*



## General relationship between Renewable Energy Communities & Citizen Energy Communities

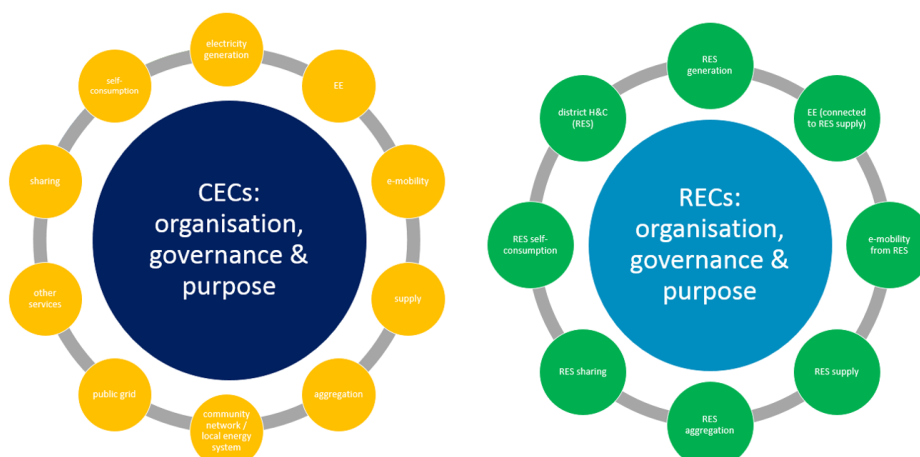


### 23. What are the differences between “renewable energy community” and “citizen energy community”?

**Answer:** the differences between citizen and renewable energy communities relate to activities and eligibility criteria:

- **Activities:** citizen energy communities participate across the electricity sector, while renewable energy communities focus only on renewable energy.
- **Eligibility to participate:** any size entity can participate in a citizen energy community, while renewable energy communities limit participation to micro-, small and medium sized enterprises.
- **Effective control:** citizen energy communities must be effectively controlled by natural persons, local authorities or micro- and small enterprises, while renewable energy communities must be effectively controlled by members that are located in proximity to the community’s projects, without any reference to size.
- **Autonomy:** renewable energy communities must be autonomous (and hence more democratic) in their internal decision making, while this is not mentioned for citizen energy communities.

### Comparing activities of Citizen Energy Communities & Renewable Energy Communities





**24. What are the similarities between “renewable energy community” and “citizen energy community”?**

**Answer:**

- Participation in citizen energy communities and renewable energy communities must be open and voluntary.
- The emphasis on participation and effective control is placed on citizens, local authorities and smaller businesses that are not already active in the energy sector.
- The primary purpose of both citizen energy communities and renewable energy communities is to provide environmental, economic or social community benefits for its members or the local areas where it operates rather than financial profits.

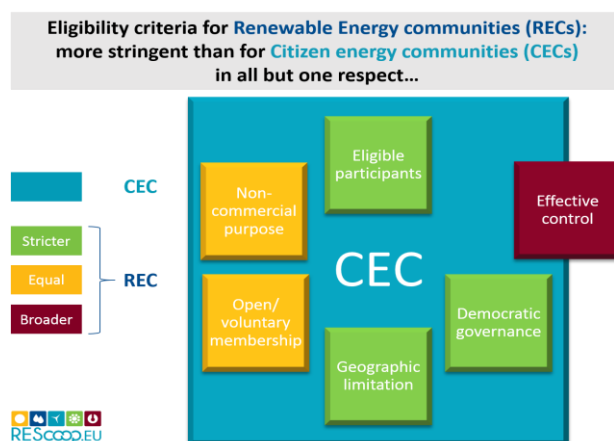
**25. What are the benefits of being a ‘renewable’ vs ‘citizen’ energy community?**

**Answer:** The Electricity Directive guarantees that citizen energy communities can participate across the electricity market without discrimination and on a level playing field with other market actors, but it does not require Member States to actively promote their development. The Renewable Energy Directive also prevents discrimination and guarantees a level playing field, but it also goes further and requires Member States to take actions to promote the development of renewable energy communities, namely through measures that must be included in their national level enabling frameworks. Member States are also required to take renewable energy communities into account when developing renewables support schemes, to provide more information for citizens regarding participation in a renewable energy community, and to integrate provisions on renewable energy communities into local urban plans.

**26. Can a renewable energy community also be a citizen energy community, and vice versa?**

**Answer:** In theory, yes – under certain circumstances.

- A renewable energy community will almost always be a citizen energy community, with the following caveat: to also be a citizen energy community a medium-sized enterprise can’t be involved in the effective control of the renewable energy community (because in citizen energy communities only micro and small enterprises can be involved in the effective control besides natural persons and local authorities).
- A citizen energy community could also qualify as a renewable energy community if it does not have any members that are larger than a medium-sized enterprise, and as long as the effective control is held by local members.



## Relationship between energy communities as an ‘organisation’ concept and other innovative ‘activities’ in the CEP

### 27. Does the CEP frame/conceptualise energy communities around local energy systems (e.g. micro-grids) and innovation?

**Answer:** No, at least when looking at the definition. Energy communities are not about technical activities. Setting up a local energy system is a technical activity, which an energy community could undertake, but it does not in any way define an energy community.

### 28. What is the relationship between energy communities and local energy systems (e.g. positive energy districts, clusters, or micro-grids)?

**Answer:** The Electricity Directive provides opportunities for energy communities to set up, own and operate ‘community networks’, which it describes as public distribution networks and closed distribution systems.

### 29. What is the relationship between ‘renewables self-consumption’ (Article 21) and ‘renewable energy communities’ (Article 22) in the Renewable Energy Directive?

**Answer:** Article 21 provides a framework (rights and responsibilities) for how the activity of renewables self-consumption – on an individual and joint (or collective) basis – may be carried out. It is important to note that the Renewables Directive also provides separate definitions for ‘renewables self-consumers’ and ‘jointly acting renewables self-consumers’.<sup>1</sup>

### 30. What is the difference between ‘jointly acting renewables self-consumers’ and energy communities?

**Answer:** The activity of collective renewables self-consumption by jointly acting renewables self-consumers can be facilitated or undertaken by any business model. In addition, it is envisioned that this activity takes place through contractual arrangements between the participants among each other and/or with a third party. An energy community, on the other hand, is a separate, specific way to organise a specific activity. Therefore, it would be possible for citizens to organise collective self-consumption through an energy community, as long as the activity is organised through a legal entity that complies with the criteria in the EU definitions (described above).

## What happened to ‘Local Energy Community’ (LEC)?

### 31. What happened to the definition ‘local energy community’? What is its status?

**Answer:** ‘Local energy community’ was the definition introduced by the Commission in its original legislative proposal for the recast Electricity Directive, in what is now called a ‘citizen energy community’. Therefore, it no longer has any policy significance and exists only as a footnote in the legislative history of the CEP.

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<sup>1</sup> Renewable Energy Directive, Article 2 subparagraphs 14 and 15.

**32. Was the definition of local energy community framed/conceptualised around a systems approach?**

**Answer:** No. At the core of this proposal were ‘value-oriented’ enterprises that focus on providing services or benefits to their members or the local community. This is reflected in both the recitals and in the definition that was proposed by the Commission. The Commission’s proposal also intended to provide energy communities a right to set up and run ‘community networks’. However, the Commission did not provide a definition for this term, and community networks were only one element in Article 16 of the Electricity Directive, which sets out rights and responsibilities of energy communities across the electricity sector.

**33. Did the change from ‘local energy community’ to ‘citizen energy community’ in the definition represent a significant shift in conceptual approach?**

**Answer:** No. The name change was part of an overall process to improve the definition and make it more concrete and focused on empowering citizens. Similarly, additional principles around governance were included in the definition throughout the negotiations. The main intent, which was to recognise a more value-based, non-commercial enterprise that empowers community ownership, was maintained.

## Transposition

**34. What are the obligations for Member States ? And what happens if they don’t comply with those obligations ?**

**Answer:** Member States must revise their national laws so that they comply with the new EU rules. This includes a requirement to develop national level definitions for citizen energy communities and renewable energy communities, giving effect to the new rights and responsibilities of energy communities so they can participate across the energy system, and putting in place required elements of ‘enabling frameworks’ for renewable energy communities. If Member States do not do this by the transposition deadline of 30 June 2021, they will be considered in breach of EU legislation and the Commission can undertake enforcement proceedings, which could result in the Member State being taken to the Court of Justice of the EU (CJEU) for not-compliance with EU law.

**35. What are the different ways that Member States could transpose the new definitions of energy communities?**

**Answer:** In general, there are a couple ways Member States could define energy communities:

- Legal entity-based approach: Define a new legal form, or designate one or more existing legal forms, which integrate each of the eligibility criteria that is included in the EU level definitions.
- Criteria-based approach: Without referring to any specific legal entity, define eligibility criteria that any legal entity could adopt if it wants to be recognised as an energy community at national level.

- Activity-by-activity approach: A Member State could elect to adopt a different definition for each activity that an energy community could perform (e.g. production, retail supply, aggregation, collective self-consumption, community network operator, ESCo, etc). However, this approach would entail the multiplication of energy community definitions at national level, creating complexity and lack of clarity. This approach is not advisable.

### 36. Should Member States create a new legal entity(ies) for energy communities?

**Answer:** If a Member State has clearly identified a legal form that it wants to promote for energy communities (e.g. cooperative, association, social enterprise, etc.) and such form does not already exist, it should be encouraged to develop a new legal form. This approach would go a long way towards clearly identifying citizen and/or renewable energy communities as a distinct energy market actor. In Greece, the new law on energy communities adopts cooperatives as the basis for its definition of energy communities.

### 37. Can Member States transpose wider or narrower definitions of energy communities than what is in the EU definitions?

**Answer:** If a Member State defines energy communities more broadly than the EU level definitions, it would probably be considered to be in breach of EU law for having failed to properly transpose binding European legislation. On the other hand, a Member State could probably define an energy community more narrowly than EU legislation. However, the Member State would need to justify this approach, and show that a narrower definition does not amount to an unjustified condition that would prevent citizens from participating in an energy community.

### 38. Would it be possible to adopt one definition that covers both ‘renewable energy communities and ‘citizen energy communities’ concepts?

**Answer:** In theory, yes. However, the definition would need to be based on eligibility criteria that are common to both definitions, particularly around participation and effective control. This would mean that *renewable energy communities would need to limit effective control not just to local members but also to small enterprises*. Likewise, *citizen energy communities would need to guarantee autonomy and limit participation to medium-sized enterprises* rather than allowing any size enterprise to participate. This is what REScoop.eu prefers and advocates for.

### 39. Is it possible for Member States to copy-paste the EU level definitions in to national law?

**Answer:** Yes, but this is not advisable. The EU level definition contains general principles that need to be further defined in national legislation. If the EU level definition were simply copied into national law, it would remain overly vague and hard to interpret or implement.

### 40. Which principles in the EU level definitions need to be further clarified in national legislation?

**Answer:** the following principles need to be further elaborated in a more precise manner:

For both citizen and renewable energy communities:

- The meaning of ‘open’
- The meaning of ‘voluntary’
- The meaning of ‘effective control’
- The meaning of ‘environmental, economic or social community benefits’

For renewable energy communities only:

- The meaning of ‘autonomy’
- The meaning, or scope, of ‘proximity’

**41. What is the best way for a Member State to transpose the new definitions of energy communities?**

**Answer:** it depends on a number of considerations, including: 1) the desire to ensure legal clarity and ease of transposition; and 2) allowing flexibility for energy communities to evolve with different sets of market actors and participants.

- One: Adopting one single definition and applying it to both renewables and the electricity sector would have the benefit of limiting complexity and easier understandability for decision makers, regulators, citizens and communities, and other industry stakeholders. However, this would inherently limit the organisation of different participants and governance structures in energy communities.
- Two: Adopting two definitions would have the benefit of allowing for more options for the organisation of energy communities. However, it would add a layer of complexity for decision makers, regulators, citizens and communities, and other industry stakeholders.
- Three: A middle ground could be to elaborate a definition of citizen energy communities, and then identify additional criteria if a citizen energy community wants to be considered as renewable energy community. This would implicate an add-on approach, whereby citizen energy communities elect to adopt more stringent governance standards in order to qualify as a renewable energy community, and to benefit from the additional support that such recognition implies.

**42. What is the best way to ensure coherence between the definitions of ‘renewable energy communities’ and ‘citizen energy communities’?**

**Answer:** from the approaches just described above, we would recommend the second or third approach:

- Adopt one national definition that is based on eligibility criteria that are common to both EU level definitions (i.e. ensure autonomy applies to both citizens and renewable energy communities and that effective control is limited to small enterprises); or
- Define citizen energy communities and define renewable energy communities as a subset that has a slightly different set of organisational characteristics.

**43. What is the best way for a Member State to approach transposition of provisions for self-consumption, jointly acting renewable self-consumers and other innovative concepts versus frameworks for energy communities?**

**Answer:** We recommend that each of these concepts be transposed separately. Specifically, Member States develop technical and legal aspects of national frameworks for different activities covered by the CEP, one by one. Then we would recommend Member States to develop a separate law on energy communities that covers inter alia the definition, how they are organised, how they can distribute benefits, the activities they can perform, and any special rights or obligations that apply to them when performing various activities. To the extent necessary, energy communities should be integrated within these different technical frameworks. This will ensure that frameworks for different activities are developed as broadly as possible in order to empower a

wide variety of business models, while ensuring proper acknowledgment for energy communities and a level playing field.

**44. What if a Member State wants to develop a definition of citizen energy community or renewable energy community around a particular activity (e.g. collective self-consumption)?**

**Answer:** Then the Member State would need to create a new definition of energy community for every activity an energy community could perform – not just collective self-consumption. Given that energy communities are ensured the right to participate across the renewables and electricity sector, in order to comply with EU law, the Member State would have to come up with a number of energy community definitions that would be quite expansive. We would advise against such an approach.

## Annex I

## Comparing the definitions side-by-side

| 'Renewable Energy Community'   | 'Citizen Energy Community'  |
|--|---|
| <p>A legal entity which, in accordance with the applicable national law:</p> <ul style="list-style-type: none"> <li>• is based on <b>open and voluntary</b> participation,</li> <li>• is <b>autonomous</b>, and</li> <li>• is <b>effectively controlled by shareholders or members that are located in the proximity</b> of the renewable energy projects that are owned and developed by that legal entity;</li> </ul><br><ul style="list-style-type: none"> <li>• the shareholders or members of which are <b>natural persons, SMEs or local authorities, including municipalities;</b></li> <li>• the <b>primary purpose</b> of which is to provide <b>environmental, economic or social community benefits</b> for its shareholders or members or for the local areas where it operates, <b>rather than financial profits.</b></li> <li>• <i>(While not part of the definition, RECS are entitled to <b>produce, consume, store and sell renewable energy, including through renewables power purchase agreements, to share renewable energy within the community, and to access all suitable markets.</b>)</i></li> </ul> | <p>A legal entity that:</p> <ul style="list-style-type: none"> <li>• Is based on <b>voluntary</b> and <b>open</b> participation</li> <li>• <i>(autonomous is not mentioned)</i></li> <li>• and is <b>effectively controlled by</b> members or shareholders that are <b>natural persons, local authorities, including municipalities, or small enterprises</b> <i>(recitals: 'that are not engaged in large-scale commercial activity and for which the energy sector does not constitute a primary area of economic activity')</i>.</li> <li>• <i>(recitals: "membership of citizen energy communities should be open to all categories of entities." This means also medium-sized and large enterprises.)</i></li> <li>• has for its <b>primary purpose to provide environmental, economic or social community benefits</b> to its members or shareholders or to the local areas where it operates <b>rather than to generate financial profits;</b></li> <li>• <b>may engage in</b> generation, including from renewable sources, distribution, supply, consumption, aggregation, energy storage, energy efficiency services or charging services for electric vehicles or provide other energy services to its members or shareholders;</li> </ul> |



## Annex II

### Recitals text pertaining to the energy communities definitions

#### Recitals to the Electricity Directive - Citizen Energy Communities

(43) Distributed energy technologies and consumer empowerment have made community energy an effective and cost-efficient way to meet citizens' needs and expectations regarding energy sources, services and local participation. Community energy offers an inclusive option for all consumers to have a direct stake in producing, consuming or sharing energy. Community energy initiatives focus primarily on providing affordable energy of a specific kind, such as renewable energy, for their members or shareholders rather than on prioritising profit-making like a traditional electricity undertaking. By directly engaging with consumers, community energy initiatives demonstrate their potential to facilitate the uptake of new technologies and consumption patterns, including smart distribution grids and demand response, in an integrated manner. 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. Where they have been successfully operated such initiatives have delivered economic, social and environmental benefits to the community that go beyond the mere benefits derived from the provision of energy services. This Directive aims to recognise certain categories of citizen energy initiatives at the Union level as 'citizen energy communities', in order to provide them with an enabling framework, fair treatment, a level playing field and a well-defined catalogue of rights and obligations. Household customers should be allowed to participate voluntarily in community energy initiatives as well as to leave them, without losing access to the network operated by the community energy initiative or losing their rights as consumers. Access to a citizen energy community's network should be granted on fair and cost-reflective terms.

(44) Membership of citizen energy communities should be open to all categories of entities. However, the decision-making powers within a citizen energy community should be limited to those members or shareholders that are not engaged in large-scale commercial activity and for which the energy sector does not constitute a primary area of economic activity. Citizen energy communities are considered to be a category of cooperation of citizens or local actors that should be subject to recognition and protection under Union law. The provisions on citizen energy communities do not preclude the existence of other citizen initiatives such as those stemming from private law agreements. It should therefore be possible for Member States to provide that citizen energy communities take any form of entity, for example that of an association, a cooperative, a partnership, a non-profit organisation or a small or medium-sized enterprise, provided that the entity is entitled to exercise rights and be subject to obligations in its own name.

(45) The provisions of this Directive on citizen energy communities provide for rights and obligations, which are possible to deduce from other, existing rights and obligations, such as the freedom of contract, the right to switch supplier, the responsibilities of the distribution system operator, the rules on network charges, and balancing obligations.

(46) Citizen energy communities constitute a new type of entity due to their membership structure, governance requirements and purpose. They should be allowed to operate on the market on a level playing field without distorting competition, and the rights and obligations applicable to the other electricity undertakings on the market should be applied to citizen energy communities in a non-

discriminatory and proportionate manner. Those rights and obligations should apply in accordance with the roles that they undertake, such as the roles of final customers, producers, suppliers or distribution system operators. Citizen energy communities should not face regulatory restrictions when they apply existing or future information and communications technologies to share electricity produced using generation assets within the citizen energy community among their members or shareholders based on market principles, for example by offsetting the energy component of members or shareholders using the generation available within the community, even over the public network, provided that both metering points belong to the community. Electricity sharing enables members or shareholders to be supplied with electricity from generating installations within the community without being in direct physical proximity to the generating installation and without being behind a single metering point. Where electricity is shared, the sharing should not affect the collection of network charges, tariffs and levies related to electricity flows. The sharing should be facilitated in accordance with the obligations and correct timeframes for balancing, metering and settlement. The provisions of this Directive on citizen energy communities do not interfere with the competence of Member States to design and implement policies relating to the energy sector in relation to network charges and tariffs, or to design and implement energy policy financing systems and cost sharing, provided that those policies are non-discriminatory and lawful.

#### **Recitals to the Renewable Energy Directive - Renewable Energy Communities**

(70) The participation of local citizens and local authorities in renewable energy projects through renewable energy communities has resulted in substantial added value in terms of local acceptance of renewable energy and access to additional private capital which results in local investment, more choice for consumers and greater participation by citizens in the energy transition. Such local involvement is all the more crucial in a context of increasing renewable energy capacity. Measures to allow renewable energy communities to compete on an equal footing with other producers also aim to increase the participation of local citizens in renewable energy projects and therefore increase acceptance of renewable energy.

(71) The specific characteristics of local renewable energy communities in terms of size, ownership structure and the number of projects can hamper their competition on an equal footing with large-scale players, namely competitors with larger projects or portfolios. Therefore, it should be possible for Member States to choose any form of entity for renewable energy communities, provided that such an entity may, acting in its own name, exercise rights and be subject to obligations. To avoid abuse and to ensure broad participation, renewable energy communities should be capable of remaining autonomous from individual members and other traditional market actors that participate in the community as members or shareholders, or who cooperate through other means such as investment. Participation in renewable energy projects should be open to all potential local members based on objective, transparent and non-discriminatory criteria. Measures to offset the disadvantages relating to the specific characteristics of local renewable energy communities in terms of size, ownership structure and the number of projects include enabling renewable energy communities to operate in the energy system and easing their market integration. Renewable energy communities should be able to share between themselves energy that is produced by their community-owned installations. However, community members should not be exempt from relevant costs, charges, levies and taxes that would be borne by final consumers who are not community members, producers in a similar situation, or where public grid infrastructure is used for those transfers.