Recommendations on the Czech Republic Modernisation Fund

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This report provides an overview of REScoop.eu's recommendations for the utilisation of the Modernisation Fund by the Czech Republic, so as to promote the development of energy communities.

Introduction

The Clean Energy for all Europeans Package (CEP) aspires to achieve climate neutrality by 2050 and enhance citizen participation and empowerment in the energy transition. In December 2020 the Council decided to increase the EU's climate ambition for 2030 to a reduction of at least 55% compared to 1990. In order for that target to be achieved, **everyone should contribute** towards the realisation of the energy transition to a cleaner energy future free from fossil fuels.

One of the key funding instruments contributing to the objectives of the European Green Deal is the Modernisation Fund (MF), which is a dedicated funding programme to support 10 lower-income EU Member States in their transition to climate neutrality by helping to modernise their energy systems and improve energy efficiency. These 10 countries are Bulgaria, Croatia, Czechia, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Slovakia. The MF will support investments in:

- Generation and use of energy from renewable sources;
- Energy efficiency;
- Energy storage;
- Modernisation of energy networks, including district heating, pipelines and grids;
- Just transition in carbon-dependent regions: redeployment, re-skilling and upskilling of workers, education, job-seeking initiatives and start-ups.[1]

The Modernisation Fund will:

- Help the beneficiary Member States **meet the 2030 climate and energy targets** and play an **active role in EU transition to climate neutrality**;
- Increase energy security in the beneficiary Member States by supporting increased interconnections and modernisation of energy networks;
- **Enhance the financing of renewable energy sources**;
- Help make the economies and the energy sectors of the beneficiary Member States **greener and cleaner** and
- Promote exchange of best practices among the beneficiary Member States.[2]

The national measures that will be developed to administer the MF should thus promote the fight against climate change, support environmental protection and ensure security of energy supply. Moreover, taking into consideration that the CEP enhances the role of citizens as active consumers and members of an energy community in the energy

[1] More information can be found in: https://ec.europa.eu/clima/policies/budget/modernisation-fund_en
[2] Ibid.

transition, the investments that these 10 Member States will submit for MF support should include support for community energy projects.

Czech Republic is entitled to receive 193.152.692 million euros from the MF. However, according to their implementation document of the MF,[3] they plan to devote only 1.5% of the fund to "energy communities", without even defining what market actors the term "energy communities" include. The following analysis will mainly focus on reasons why energy communities should be clearly defined in this document and should receive a higher percentage of support from the MF.

Who we are

REScoop.eu is the European federation of citizen energy cooperatives. We are a growing network of more than 1,500 European Energy Cooperatives (REScoops) and their 1,000,000 citizens. Through REScoop.eu, we wish to make our voices heard in the European energy debate. Citizens after all are the ones who will be paying for the transition to a more sustainable energy system. REScoop.eu empowers them and wants to achieve energy democracy. Our federation has four well-defined objectives:

1. We represent the voice of citizens and renewable energy cooperatives to European policy makers;
2. We support the start-up of new REScoops and provide them with useful tools and contacts;
3. We provide services for the European REScoops and are currently working on a financial tool; and
4. We promote the REScoop business model throughout Europe.

As cooperatives, our members are now acknowledged under the CEP as 'renewable energy communities' and 'citizen energy communities'. While we do not have an exact figure, a majority of our members focuses on the production of renewable energy for export to the grid and the market. Most – if not all – of our members also benefit from a national support scheme for renewables. We support our members so they can engage in national discussions relating to the development and amendment of renewable energy support schemes. Finally, we currently support our members in the transposition of the CEP, notably Directive (EU) 2018/2001 (the Renewable Energy Directive - REDII). Therefore, we are concerned with how the existing legislation of the Member States interact with the CEP and, more importantly, how it will evolve so that it will support the new CEP provisions on energy communities.

[3] Available at: https://www.sfzp.cz/files/documents/storage/2020/11/30/1606719685_Programov%C3%BD%20dokument%20MF_30-11-2020.pdf. The relevant pages here are pages 50-51, which describe the energy communities programme and also 33-34, where the allocation of the funding is described.

Energy communities in the CEP

In its original Communication on a Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy (25/02/2015), the Commission stated unequivocally that citizens should be 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".*[4]

Based on its vision for an Energy Union, the Commission made giving a fair deal to consumers one of the goals of its proposed CEP. To achieve this goal, the Commission proposed a broad, overarching legal framework to support citizens to get involved across the energy market – both individually and collectively. **Specifically, the CEP acknowledges and defines 'active customers', 'renewables self-consumers', 'renewable energy communities' (RECs), and 'citizens energy communities' (CECs).**

With this legislative package, EU has signalled a strong shift in the role of citizens from passive consumers to active participants in the energy transition. For the first time, EU legislation also acknowledges **the role community energy ownership can play in helping the EU meet its climate and energy objectives**, while driving local social innovation. In particular, the recast Directive 2018/2001 (REDII), recast Directive 2019/944 (the Internal Electricity Market Directive, or IEMD) and recast Regulation 2019/943 (the Internal Electricity Market Regulation, or IEMR) contain provisions that establish a supportive EU legal framework for community ownership. The CEP defines two new concepts, the RECs and CECs. It also requires Member States to secure certain rights of energy communities and establish enabling frameworks to ensure a level playing field and promote their development. For RECs in particular, RED II aims to provide special support to promote their development at national level. EU Member States must transpose REDII provisions into national legislation by 30 June 2021 and IEMD provisions by 31 December 2020, to ensure they are consistent with the new EU legislation. The transposition should be seen as an opportunity for Member States to incorporate the new role of citizens and communities in their energy legislation. It is also an opportunity to update policy frameworks to support the empowerment of smaller and non-commercial market actors in the energy market as well as more decentralised renewable energy production and consumption.

[4] Available at: https://eur-lex.europa.eu/resource.html?uri=cellar:1bd46c90-bdd4-11e4-bbe1-01aa75ed71a1.0001.03/DOC_1&format=PDF

The main distinguishing aspect between community ownership and other citizen and community energy initiatives organized or owned by traditional commercial energy companies is how they are organized. In particular, community ownership organises citizens in a legal entity and most often incorporate a particular set of principles around participation, ownership and governance principles, namely:

Community ownership principles	
Non-commercial purpose	The energy community exists primarily to provide services or other benefits to the members, or to the broader local community. In this sense, revenues or profits from economic activities are reinvested in the activities of the energy community, go towards providing services to members, or go towards socio-economic initiatives that benefit members of the local community, such as education, investment in local/public infrastructure, addressing energy poverty, etc. The directives frame energy communities as non-commercial type of actors that use revenues from economic activities to provide services/benefits for members and/or the local community.
Ownership and control	Participation focuses on economic participation, providing members with ownership of a project and/or services provided by the community. In exchange the members are entitled to receive services from the community and/or a return on investment. This also allows local citizens, small businesses, or local authorities that participate in the community to exercise strategic control and direction over the community.
Open and voluntary participation	Membership in an energy community is open to anyone that is willing to undertake the responsibility of becoming a member. Therefore, energy communities should not discriminate against anyone that wants to join the community. Likewise, members should be able to leave if they choose.
Governance/decision making	Internal decisions are based on democratic governance based on equal decision-making rights for all members, regardless of the amount of investment. Furthermore, there is an emphasis on ensuring decision-making 'autonomy', so that that the collective will of the members is not compromised due to the investment or decision making by one or a small group of individual members, or outside business partners.

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Cooperatives in particular embody these characteristics, which have a deep foundation in the seven International Cooperative Alliance (ICA) principles, or Rochdale Principles. These principles can be integrated into any legal form, not just into the legal form of a cooperative. Due to their unique characteristics, RECs can be considered to be a separate class of market actor from traditional market actors. In other words, their unique characteristics place them in a different legal and factual situation, in particular regarding the equality principle.

Both the RED II and the IEMD require Member States to **provide an enabling framework to promote and facilitate the development of RECs and CECs** respectively.[5] In more detail, unjustified administrative and regulatory barriers should be removed, while also the energy communities should be subject to fair, proportionate and transparent procedures, including registration and licensing procedures.[6] In line with this requirement, costly and complex administrative procedures that pose a burden in applying for aid should be removed and simplified rules should apply for energy communities. Furthermore, RECs should not be subject to discriminatory treatment with regard to their activities, rights and obligations as final customers, producers, suppliers, distribution system operators, or as other market participants, while also there should be tools in place to facilitate access to finance and information.[7] **As a result, Member States ought to make sure that energy communities have access to adequate finance, so that they can better perform their activities.**

In addition, according to article 16(3)(a) of the IEMD, Member States shall ensure that CECs are able to access all electricity markets in a non-discriminatory manner. Therefore, the enabling framework is intended to create a level playing field for CECs as new market actors.[8] Moreover, Member States are required to take the specificities of RECs into account when designing their renewable energy support schemes, in order to allow them to compete for support on an equal footing with other market participants.[9] As a result, both Directives recognise that the energy communities are unique players in the energy market and that the **Member States should identify concrete measures to make sure that they receive adequate support to be able to compete equally with the other market players without discrimination**.

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[5] Article 22(4) of the REDII and 16(1) of the IEMD.
[6] Article 22(4)(a) and (d) of the REDII and 16(1)(e) of the IEMD.
[7] Article 22(e) and (g) of the REDII.
[8] Aura Caramizaru and Andreas Uihlein, *Energy communities: an overview of energy and social innovation*, JRC Science for policy report 2020, pages 7,8
[9] Article 22(7) of the REDII. On the same note, recital 26 of the RED II specifies that "*Member States should ensure that renewable energy communities can participate in available support schemes on an equal footing with large participants. To that end, Member States should be allowed to take measures, such as providing information, providing technical and financial support, reducing administrative requirements, including community-focused bidding criteria, creating tailored bidding windows for renewable energy communities, or allowing renewable energy communities to be remunerated through direct support where they comply with requirements of small installations.*".

To this end, the legislation of each Member State should be revised in order to align with these clear requirements of the CEP and funding opportunities should be allocated to energy communities.

The need for support of the energy communities is also recognised in the 2020 JRC Science for policy report, which specifies that the long-term sustainability of the energy communities

> *"will be contingent on the development of viable business models moving towards innovative financing and remuneration schemes, smart technologies, national regulatory support and their wider social acceptance and degree of citizen participation.".*[10]

In order to allow energy communities to compete on an equal footing with other market participants, the procedures for participation in support schemes should be changed, so as to include criteria for local community benefits. As recognised in the same report,

> *"The fast development of communities can be largely attributed to policy support schemes such as feed-in-tariffs that supported investments in renewable generation assets. [..] Easing the procedures for participation in these support mechanisms – such as including criteria in tenders for local community benefits could help support local and citizen participation. Local authorities are well placed to support communities by, for example, providing quotas for local ownership of renewable energy projects for citizens. […] Innovative financing schemes are necessary to overcome barriers to investments.".*[11]

Although the Green Deal puts citizens at the heart of the energy transition and the CEP explicitly recognizes the specific characteristics of RECs,[12] the current implementation document of the MF in the Czech Republic does not allow their full development. In more detail, the existing chapter dedicated to energy communities will need to be amended to fit the new context of the CEP, including its intent to ensure citizens can participate both individually and collectively through energy communities across the energy market. In particular, it will need to ensure that enough funding is in place, so RECs are able to

[10] Aura Caramizaru and Andreas Uihlein, *Energy communities: an overview of energy and social innovation*, JRC Science for policy report 2020, page 2
[11] Ibid 33
[12] As recital 71 of the REDII clearly underlines, "*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*".

develop community energy projects and have an equal opportunity to access the energy market.

Benefits the energy communities bring forward

The development of community RES projects is connected to several additional benefits that other RES projects do not entail. All of these benefits are connected to the fact that the primary purpose of an energy community is **to provide environmental, economic or social community benefits to its members or shareholders or to the local areas where it operates, rather than to generate financial profits**.[13] This shows that the energy communities do not limit their activities to profit making, as the other market players, but they reinvest their surplus into the community's activities (e.g. renewables generation projects), or use them to pursue general public interest aims such as local development, education, or solidarity programmes.[14] As a result, the excess benefits that they bring forward compared to other market players justify a higher percentage of funding from the MF to develop their activities.

Examples of economic benefits

- **promotion of local development**. The participation of local people and local authorities in RES projects through RECs has brought great added value, as it has allowed access to more private capital resulting in local investment. This leads to regional value creation, as the money stays in the local economy.[15] Moreover, there is greater choice for the consumers and increased citizen participation in the energy transition;
- **share of national/local ownership**. In many European countries, a significant part of the investment in the increasing renewable energy capacity installations is coming from foreign countries. Most of the time, local citizens don't have the opportunity to invest in such projects and, therefore, loose an "investment opportunity". The development of community RES projects has a positive impact on the share of nationally owned new renewable energy capacity installed. From a territorial point of view, as community-driven projects are more attached to the geographical area of the promoters, initially they will be more decentralized, avoiding monocropping and the concentration of installed capacity in "hot spots", thus promoting landscape diversity and better resilience;

[13] Article 2(16)(c) of the RED II and article 2(11)(b) of the IEMD.
[14] REScoop.eu and ClientEarth, *Energy Communities under the Clean Energy Package*, Transposition Guidance, page 21 Available at: https://www.rescoop.eu/news-and-events/press/energy-communities-under-the-clean-energy-package
[15] More information can be found in two studies available at: https://www.erneuerbareenergien.de/archiv/local-added-value-from-a-community-wind-farm-150-437-96249.html and Note technique - Etude Retombees eco - Energie Partagee (energie-partagee.org).

- **a return on investment to members;**
- **better local security of supply in case of power disturbances elsewhere in the grid;**
- **investment in public infrastructure; and**
- **reduced energy bills - at least for households and other non-professional customers.**

Examples of environmental benefits

- **increased production of locally developed renewable energy.** Local commitment is essential in the context of the increased renewable energy generation capacity. The focus of energy community activities is on renewable energy sources (RES) only, and not on fossil and/or nuclear fuels, like big market actors. As a consequence, less money is spent on fossil fuels;
- **greenhouse gas emissions reductions** (e.g., carbon dioxide, CO2). The renewable energy community projects contribute to the reduction of fossil fuel emissions. Moreover, energy communities increase awareness about energy conservation in the local area they operate, inspire more conscious energy consumption and thus lower emissions;
- **environmental protection**. From the environmental point of view, usually community projects are more accepted by local citizens, therefore they tend to be more respectful with the local environment, since their impact is closely supervised and assessed by the citizens who are directly involved as members. Furthermore, since the purposes of community projects are not only oriented to profitability, the incentive to overlook environmental requirements with the aim to achieve better investment returns is not present in these cases.

Examples of social benefits

- **active citizen participation and investment in energy efficiency, energy poverty/solidarity initiatives**. Community projects have a higher and specific impact in the social sphere when compared to other RES projects, in the sense that they can extend RES projects benefits to consumers and citizens who usually do not have access to them. In other words, the economic benefits of the project are better distributed, reaching those who usually do not take advantage of them and consumers have access to energy resources independently of their income. Also, if the project is led by the local community, it will be easier for them to detect cases of vulnerable consumers and therefore find better and more adapted solutions for issues related to energy poverty;
- **provision of different services** (e.g., energy supply, sharing, advice) to members;

- **change of behaviour in the field of energy**. The involvement of citizens in the energy sector signals a change of behaviour towards cleaner energy and lower energy consumption, which is spread among the members of the energy community and the local area it operates;
- **acceptance of renewable energy projects**. Citizen participation and community co-ownership schemes raise the acceptance of renewable energy;[16]
- **promotion of energy democracy and effective control by local citizens**;
- **citizen empowerment**. RES projects developed by energy communities empower the citizens in the sense that the latter acquire technical knowledge, skills and capacities that go beyond the ones acquired by a traditional investor (who is usually focused only on the profitability of its shares);
- **social innovation of the energy system**. Energy community projects extend beyond generation to new areas such as energy supply, energy efficiency and electro-mobility;
- **strengthen community cohesion**, in the sense that the ability to share gains amongst their members is key for their long-term sustainability;
- **good cooperation between energy communities and local authorities**. Energy communities work close with the local authorities, while also municipalities and other local authorities can be members of an energy community. This collaboration helps both actors achieve their renewable energy and emission goals and promotes citizen participation in the energy transition;
- **education and training for members, school children, and/or the broader public**.

Citizen and community participation are crucial for a successful transition to a clean, decarbonized energy system. Participation in community projects has additional social, economic and environmental benefits, as analysed above, compared to the RES projects developed by other market players. The EU's Energy Union Strategy, and the CEP, in particular REDII, both acknowledge this. Furthermore, the IEMR (the Electricity Regulation) establishes the empowerment of consumers to act as market participants in the energy market and the energy transition as a principle of the internal energy market.

In addition, the activities of the energy communities add to the achievement of the objectives set by the MF: to **meet the 2030 climate and energy targets**, increase energy

[16] This is acknowledged by recital 70 of the REDII, which highlights that RECs bring particular added-value on the energy market in terms of local acceptance of renewable energy project and access to additional private capital which results in local investment that traditional market players cannot provide. As the REDII stresses: "*Such local involvement is all the more crucial in a context of increasing renewable energy capacity*".

security, enhance renewable energy and help make the economies and the energy sectors of the beneficiary Member States **greener and cleaner**.

Thus, the implementation document of the MF in the Czech Republic will need to be reformed so that it will **take into consideration the added benefits that the community projects bring forward and increase the support allocated to energy communities.** An allocation of only 1.5% of the whole MF to energy communities does not much the aspiration of the CEP and is not consistent with the principle of the consumer empowerment and active citizen participation.

Great future potential of citizen energy

Except for the unique benefits that the energy communities bring forward, the citizen energy production is estimated to have great potential towards reaching the renewable energy targets set by REDII. Except for a shift from fossil fuels to renewable energy sources, the energy transition mobilises also a shift "*from a centralised market dominated by large utilities to one in which people produce their own energy and help to manage demand*".[17] More specifically, half of all European Union citizens could be producing their own electricity by 2050, meeting 45% of the EU's energy demand.[18]

The potential of citizen energy in the EU can also be found in a report prepared by the environmental research institute CE Delft.[19] Figure 14 of this report presents the electricity that will be produced by citizens by 2050 per Member State and illustrates the great potential of energy communities in Czech Republic (while also in other Member States - keep in mind that some countries have bigger potential, e.g. Germany, as they are larger). **The allocation of just 1.5% of the MF to energy communities does not correspond to the potential of community energy in Czech Republic and does not align with the requirement of citizen participation in the CEP.**

Definition of Energy Communities

The implementation document of the MF in the Czech Republic includes a chapter dedicated to energy communities.[20] However, in this chapter there is no clear definition of energy communities that complies with the requirements of the REDII and the IEMD, which may lead to misuse of the fund by other market players. In other words, there is a danger

[17] Available at: https://www.foeeurope.org/sites/default/files/renewable_energy/2016/foee-potential-energy-citizens-eu-260916.pdf
[18] Ibid.
[19] CE Delft, 2016. The Potential for Energy Citizens in the European Union, available at: https://www.cedelft.eu/publicatie/the_potential_of_energy_citizens_in_the_european_union/1845
[20] Available at: https://www.sfzp.cz/files/documents/storage/2020/11/30/1606719685_Programov%C3%BD%20dokument%20MF_30-11-2020.pdf. The relevant pages here are pages 50-51.

of hijacking, which means that other market players may benefit from the money devoted to energy communities.

In more detail, the implementation document states that the funding programme is designed to support open energy communities established to meet their energy needs (their main purpose should not be profit-making). It also states that the owner or investor of the project is the local community, which implements these measures primarily in order to meet its energy needs. Lastly, it highlights broadly that the beneficiaries of this fund will be energy communities (e.g. cooperatives, registered associations, etc.). However, in Czech legislation there is no definition of an energy community, as the EU Directives have not yet been transposed to national law. To this end, the implementation document of the MF should include a clear definition of energy communities that will comply with the definitions set in REDII and IEMD for several reasons.

To start with, Czech Republic, as all Member States, is obliged to transpose these two Directives and also the definitions and framework on RECs and CECs into its national legislation. Moreover, as the Czech legislation does not yet include a clear definition for energy communities, the European definitions should be followed. On the same note, it should be kept in mind that the MF is a dedicated European funding programme, which aims to help certain Member States meet their 2030 energy and climate targets set by the CEP. Consequently, it goes without saying that the national implementation documents that will be prepared in order to administer this fund should comply with the CEP, its definitions and objectives.

Finally, the lack of a clear definition may create a situation where other market players will take advantage of the funding oriented to energy communities and the real energy communities that comply with the requirements of the CEP will not get access to even the 1.5% allocated for them. A similar situation of larger market players taking advantage of supporting measures originally oriented to community energy projects can be spotted in Germany. In the case of Germany, special provisions were set in the tendering regime for citizen energy projects, but the definition was broad and other market players took advantage of it.

In more detail, the 2017 EEG (German support mechanism) established special rules for 'citizens' energy companies' for onshore wind tenders. In the first three rounds of bids, 97% of successful bids came from eligible citizens energy companies. However, after assessing the individual projects in detail, it was shown that **nearly all of these projects were established by bigger market players, and only 8 projects could be considered a real citizen energy project**. On the other hand, for solar PV there were no preferential conditions for community projects. In the first four rounds, cooperatives submitted 11 bids, of which only two were successful – both occurring in the third round. Co-operatives have declined to participate in subsequent rounds because they have concluded it is not possible to compete in the bidding process. They have therefore been excluded. In sum,

the mechanisms that have been designed to integrate RECs into tenders show what to avoid - not best practice.

To sum up, since 2015, when the German tenders were introduced, there have been 23 rounds of tenders for solar plants with an installed capacity of 750 kW or more, with a total of 2,892 direct bids, and energy cooperatives have participated with only 26 direct bids (0.9%). There was a total of 886 direct awards. Energy cooperatives received only seven of these direct awards (0.8 %). In wind tenders for 750 kW installed capacity and above, there were eleven direct awards (1 %) for energy cooperatives out of a total of 1,040 awards (19 tender rounds since 1 May 2017). Therefore, energy cooperatives are de facto excluded from the German market of solar and wind plants larger than 750 kW by tenders.

As a result, the supporting measure that was provided to "citizen energy companies" without a strict and specific definition of energy communities was hijacked by other market participants, which pushed the energy communities out of the market. The results of that measure were the opposite of those expected. The example of Germany also proves that energy communities are not able to compete in an equal footing with other larger market players, which adds to the need to introduce financial tools to support their development and expansion. This is also the reason why the idea of allowing energy communities to source their funding from another chapter of the implementation document (called RES+) together with larger market players instead of increasing the amount of money in the special chapter for energy communities is not a good one. If this happens, the energy communities will not be able to benefit from the general RES+ chapter and bigger players will prevail, as energy communities face several additional difficulties in participating in the market. In the next chapter the problems that the energy communities face are analysed in more detail.

Problems the Energy Communities face

Administrative burden and costs

The current Guidelines on State aid for environmental protection and energy 2014-2020 (EEAG) set at a European level have introduced competitive bidding for RES support. Accordingly, the EEAG have in several Member States precipitated a move away from fixed feed-in tariffs (which have provided the most investor certainty to smaller non-traditional market actors) towards market-based forms of support. This has **made it harder for community projects to obtain finance**. In addition, the move to tenders has pushed energy communities out of the market. There is also evidence that the level of new installations coming on line has decreased since the introduction of tenders. This is the case in Germany, where the latest onshore wind tender was undersubscribed. Moreover, bidding procedures may **increase the administrative burden and costs, specifically for**

smaller participants. This is particularly true for RECs, not only because of their size but also of their ownership structure.[21]

Increased complexity and investment risks

When developing a project in "self-consumption" regimes, therefore when the only revenue generated with the RES project is related to consumers, **energy community projects' complexity increases (passing from 1 consumer to many) and the investment risk increases** as well, particularly for projects involving citizens in LV (e.g., energy community for condominium or city's neighbourhoods). One of the causes of the complexity's increase is the management (e.g., billing each member, sharing electricity in a fair way for all etc) that does not occur in traditional big RES project where all the electricity produced is sold on the market. Due to this, **there is no interest for private companies to invest in energy communities.** The problem increases as much as the size of the communities decreases. On a similar note, energy communities face difficulties in obtaining bank loans for their projects, as there is lack of understanding of the community energy movement. This misconception leads to lack of trust from the banks, which do not easily provide loans to finance community energy projects.

In addition, due to their unique characteristics, **RECs do not have the same means to reduce risks for investors and thus access to capital financing compared to companies and profit-oriented market players.** Young RECs cannot spread higher risk across multiple projects, because they have a small or non-existent portfolio of projects to hedge risk against. Moreover, while the REDII defines the primary purpose of a REC as to provide environmental, economic or social community benefits rather than financial profits for their shareholders or members, bidding procedures often focus on economic criteria[22] without taking sufficient account of social or environmental aspects of projects. This is mainly due to the capital-intensive nature of renewable energy projects, but restricts access to state aid almost exclusively to traditional economic market players.[23]

Access to market and local mobilisation

Furthermore, due to their local nature, RECs rely largely on finance from local members who are mostly households and small businesses. Many citizens are unable or unwilling to take on the risk of financing sunk costs for feasibility studies, permits and other

[21] See Article 2 (16) (b) of the REDII: The shareholders or members of renewable energy communities shall be natural persons, SMEs or local authorities, including municipalities.
[22] Putting the focus only on best economic offers and the requirement for advancing a high guarantee.
[23] For example, within the third tendering period for onshore wind energy in France, only one project with participatory investment was selected out of the twenty-one. In France, the risk of a decrease in the social acceptance of the projects like in Germany has thus emerged.

administrative procedures without certainty of success, or to meet high tender participation criteria. On the same note, RECs also face the **problem of access to locations**. As they are local and they cannot compete on a national or international scale, it is harder to find locations for their projects. In this sense, access to the market is much more difficult for them. Many RECs also lack decision-making efficiency due to their democratic decision-making structures. Their reliance on volunteers or part-time staff prevents them from operating as efficiently as other project developers. As a result, in addition to the usual costs borne by applicants, RECs face additional costs related to the time and budget dedicated to local mobilization and dialogue specific to democratic decision-making structures.[24]

Conclusion

Consequently, it can be concluded that:

1. Energy communities need special support and financial tools set by the Member States, while also the creation of an enabling framework, which will allow them to participate in the market in an equal footing with the other market players;

2. RECs experience significant, distinct difficulties raising finance for projects and participating in tenders due to other unique characteristics. Therefore, these characteristics should be taken into account when designing the implementation document for the MF and adequate support should be granted to energy communities: this definitely means it should be more than 1.5%;

3. In the short-term, tenders have led to a significant decrease in the amount of bottom-up citizen energy projects, as depicted from the example of Germany. In the long-term, this could have a negative impact on public acceptance of new renewable energy production installations, particularly wind.[25] As a consequence, funding to energy communities should be granted by a special chapter in the implementation document of the MF in Czech Republic and not by a general RES+ chapter, where they will have to compete with larger energy market players in order to receive the funding.

In addition, under the principle of 'equal treatment', EU law prohibits

[24] ClientEarth, Competition policy supporting the Green Deal Our call for a sustainable competition policy, November 2020, page 49.
[25] Jacobs, D., Grashof, K., Del Rio, P., Fouquet, D. (2020), The Case for a Wider Energy Policy Mix in Line with the Objectives of the Paris Agreement: Shortcomings of Renewable Energy Auctions Based on World-wide Empirical Observations. IET- International Energy Transition, IZES, Spanish National Research Council (CSIC), Becker Buttner Held. A study commissioned by Energy Watch Group (EWG), World Future Council/Global Renewables Congress (WFC/GRC), and Haleakala Stiftung, pages 34-36.

"treating similar situations differently and treating different situations in the same way unless there are objective reasons to do so.".[26]

If a particular market actor or class of market actors is in a sufficiently different factual and legal situation from other market participants, they should be subject to different rules unless justified by an overriding objective. Likewise, where actors are in sufficiently different positions or situations, different treatment is not considered discriminatory. If one accepts that RECs, which take on a non-commercial purpose and integrate unique ownership and governance principles, are different from other traditional commercial energy companies, then **legislation and regulation must take into account these differences to ensure equality in the internal electricity market.**

Therefore, if energy communities will have to compete with other market participants to get access to the MF, as specified in the RES+ chapter of the implementation document of the MF, certain market participants could bid strategically due to their market power, preventing fair competition and obstructing to the equal treatment principle.[27] In this way, community project realisation would be so uncertain that fewer projects overall would be developed. This leads to discrimination and clashes with the requirement of the CEP to create an enabling framework for energy communities, so that they can compete on an equal footing with other players.

All the above-mentioned problems demonstrate that the energy communities will not be able to benefit from the general RES+ chapter, as bigger players will prevail. The allocation of a higher percentage of funding for the energy communities in the MF will facilitate their development and add to the realization of an enabling framework that promotes their operation. This higher allocation is justified by the unique benefits the community energy projects bring forward compared to the regular RES projects, while also by the problems that they face in entering the market.

Final remarks

The benefits the energy communities bring to the internal energy market, the **need to align the national legislation with the CEP**, so as to achieve climate neutrality by 2050 and the problems the energy communities face reveal the need for supporting measures for the energy communities. Thus, the Czech implementation document of the MF ought to be adapted to improve the integration of RECs into the energy market and ensure a level–playing field, while contributing to the empowerment of citizens towards decarbonisation in line with the CEP. The inclusion of a higher percentage of support for

[26] VEMW & Others (Case C17/03); Citiworks AG (Case C-439/06); & Paint Graphos Soc. coop. arl. (Joined Cases C-78/08 to C-80/08).
[27] Jacobs, D., (n 22) page 64.

energy communities is in line with the implementation by the Czech Republic of an enabling framework for RECs as required by Article 22(4) of the REDII. After all, those who primarily finance the energy transition through their tariffs, their taxes and their savings - citizens and other low voltage grid consumers- should also be able to invest in the energy transition through energy communities.

Furthermore, taking into consideration that:

i. The Czech Republic does not have a definition of energy communities;

ii. Such a definition exists at the EU level and Czech Republic is obliged to transpose it and

iii. Examples from other MS show that in case the definition is too broad, hijacking may occur;

it is imperative to include a clear definition of energy communities in the Czech implementation document of the MF, which should be based on the EU definitions. In any case, as the MF is a special funding programme aiming to help certain Member States to reach their 2030 energy and climate targets set by the CEP, it goes without saying that the Member States should comply with the CEP regulations (which include the definitions on RECs and CECs), in order to get this funding.

Dirk Vansintjan, president of REScoop.eu concludes:

> *'Moving forward, Renewable Energy Communities need to be explicitly recognised (consistent with the new definitions of RECs and their acknowledgment as distinct, non-commercial market actors, in the REDII) and defined in the implementation document for the Modernisation fund in the Czech Republic. Their unique characteristics, the benefits they bring forward compared to regular RES projects and their future potential should be taken into consideration for the decision of an adequate percentage of support in the MF, which should be higher than only 1.5%.'*

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