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Comparative analysis of regulatory context for Local Energy Communities in France, the Netherlands and Belgium (Flanders)

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1. About this report

1.1. The project

Achieving EU's decarbonisation ambitions requires a transition to a distributed energy system with participation of citizens. Local energy communities (LECs) are an effective means of doing this. LECs are organisations bringing together citizens, businesses and local authorities to collectively own and operate distributed energy resources and services.

ACCU accelerates the smart and just energy transition in NWE neighbourhoods by setting up 3 Local Energy Communities (LECs) in Arnhem (NL), Bruges (BE) and Fourmies (FR). These LECs will develop smart energy systems integrating renewable electricity and heat and storing local solar energy.

The project tackles technical, regulatory, social and financial challenges that LECs face. Doing so, ACCU reduces grid impacts, prevents energy poverty and empowers local participation in the energy transition.

Solutions and training are provided for citizens, housing corporations and authorities for new and better equipped LECs.

1.2 Context

In May 2019, the overhaul of European Union's energy policy framework was finalised through adoption of the Clean energy for All Europeans package (CEP). The new rulebook's aim has been to help decarbonise EU's energy system and deliver EU's commitments for reducing greenhouse gas emissions. The package brought new Directives that requires transposition in the national legislations of EU Member States (MS).

The new legal framework has been a significant step towards implementing the energy union strategy published in 2015. The strategy aims at providing sustainable, competitive and affordable energy to EU consumers, households and businesses. What is more, the CEP is a first EU legislative that acknowledges role of community energy ownership in the EU's climate and energy commitments and goals, while driving local social innovation.

The recasts of:

- **Renewable Energy Directive** – RED II (Directive 2018/2001 on the promotion of the use of energy from renewable sources),
- **Internal Electricity Market Directive** – IEMD or Electricity Directive (Directive 2019/944 on common rules for the internal market for electricity), and
- **Internal Electricity Market Regulation** (Regulation 2019/943 on the internal market for electricity)[1]

were particularly important for the new EU legal framework regarding community ownership.

The new legislation thus provided legal ground for the recognition of the already existing community energy initiatives across Europe. It has also pushed Member States to guarantee certain rights and benefits to local energy communities (LEC) and establish enabling frameworks to ensure a level playing field and to promote their development. It has been a new impulse for Member States to incorporate the new role of citizens and communities in their energy legislation. In parallel, it has been a chance to updated policy frameworks to support the empowerment of smaller and non-commercial energy market actors, as well as to encourage more decentralised renewable energy production and consumption.

Incorporation of the new rules into national legislations has been challenging for the Member States. The successful implementation and uptake of LECs might have been hindered by the current European and global context of the energy markets, influenced by rising prices and overall instability. What is more, technical challenges (including storage, grid availability), complex planning regulations, socio-organisational challenges with launching and organizing local energy communities and financial challenges are equally some of the reasons why the LECs are not fully thriving in the EU.

This comparative analysis report focuses on the national regulatory context in the ACCU pilot partners' countries: Belgium (Flanders), France, and The Netherlands. It seeks to assess the status of the transposition of relevant EU directives and regulations into their national legal frameworks for energy communities.

2 Introduction

2.1 Primary EU policy framework and definitions

Throughout the report we will use 'local energy community' (LEC) as an umbrella term to describe the two notions – 'renewable energy community' and 'citizen energy community' – that are used in the relevant EU legislation.

The current energy policy framework defines the important terms for the energy communities' arrangement. On one hand we have **'renewable energy community' (REC)** defined in the recast of the 'Renewable Energy Directive', EU/2018/2001 on the promotion of the use of energy from renewable sources (RED II), as a legal entity:

> a. which, in accordance with the applicable national law, is based on open and voluntary participation, is autonomous, and is effectively controlled by shareholders or members that are located in the proximity of the renewable energy projects that are owned and developed by that legal entity;
> b. the shareholders or members of which are natural persons, SMEs or local authorities, including municipalities;
> c. the primary purpose of which is 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.

On the other hand, **'citizen energy community' (CEC)** has been defined in the recast of the 'Electricity Directive', EU/2019/944 on common rules for the internal market for electricity, as a legal entity that:

> a. is based on voluntary and open participation and is effectively controlled by members or shareholders that are natural persons, local authorities, including municipalities, or small enterprises;
> b. has for its primary purpose 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; and
> c. may engage in 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;

Under the 'Electricity Directive' the market evolved in a way that citizens can, within the energy communities, pool their energy and benefit from incentives for renewable energy production. In 2019, the expectations foreseen that in 2050 some half of the EU households will be producing renewable energy.

As we can see, the two definitions are not completely aligned. It is even possible to perceive a certain ambiguity in the wording of definitions of LECs, eventually leading to think that a CEC could be founded even without actual citizen involvement. Nevertheless, the recitals of both main Directives specify the role of citizens in the organisation of energy communities. In particular, they clarify the limits on involvement in LECs for actors that engage in large-scale commercial activity or actors whose primary area of economic activity would be energy sector.

If we compare the definitions, they possess certain similarities but differ in important details. Both the REC and CEC definitions are composed of a set of criteria ('principle-based' elements) that must be met to be considered an energy community. Both definitions establish a legal entity that is organised around specific ownership and government schemes and principles, notably with a non-commercial purpose. They also determine an organisational scheme of collective ownership around a particular energy-related activity. Participation in both schemes must also be voluntary.

However, **RECs engage specifically on renewable energy and are rooted within a local context**, whereas for CECs the geographical proximity aspect is not applicable: this definition does not contain a restriction on membership based on location (geographical proximity). On the contrary, a member and a shareholder of a REC must be located in proximity to the developed project.

In terms of governance **RECs are fundamentally a subgroup to CECs**, given that they are generally stricter in terms of eligibility, requirements for effective control at local level, autonomy, and democratic governance.

2.2 Secondary EU legislation

Although the core provisions for RECs and CECs were not revised, new provisions relevant for energy communities are included in the revised Renewables Directive, Energy Efficiency Directive, Energy Performance of Buildings Directive, the Social Climate Fund and the revised Electricity Directive and Electricity Regulation. These

EU legislation developments that took place after the CEP (due to the evolution of the internal market for electricity and overall energy policies' context) can be considered as the **'second generation EU legislation' for energy communities.**

First, the RED II was amended by Directive (EU) 2023/2413 RED III that emphasize the contribution of energy communities (self-consumers) to increasing resilience of the system, that helps to achieve the Union's renewable energy targets. Furthermore, it reiterates the call on MS to encourage self-consumers and REC by providing flexibility services through demand response and storage (batteries, electric vehicles). The amending Directive also calls upon the MS to "encourage local and regional administrative bodies to include heating and cooling from renewable sources in the planning of city infrastructure", including specific provision on renewables self-consumption and RECs. MS shall also ensure shorter periods for permit-granting procedures for the installation of solar energy equipment. Finally, it calls on MS to introduce appropriate measures in the building sector to increase share of electricity from renewable sources produced on-site or nearby, through RECs and including local energy storage or bi-directional recharging and other flexibility services. Use of public procurement in the building sector is highly relevant too.

Second, Directive 2024/1711 (EMD) amend both Directives 2018/2001 and 'Electricity Directive' 2019/944 ["as regards improving the Union's electricity market design"]. It underscores the societal aspect of local energy communities. It provides that "the protection and empowerment framework for energy sharing [in the framework of REC and CEC] should pay particular attention to vulnerable customers and customers affected by energy poverty". Furthermore, it recalls that "the Commission shall provide guidance to the Member States without increasing the administrative burden in order to facilitate the establishment of a standardised approach with regard to energy sharing and ensure a level playing field for renewable energy communities and citizen energy communities.".

Third, in the recast of Energy Efficiency Directive (EU/2023/1791), requires local heating plans to assess the potential of energy communities to develop renewable energy-based heating projects.

Fourth, the recast Energy Performance of Buildings Directive (EU/2024/1275) demands building renovation plans report on the role of energy communities. It equally recognises renewable energy produced by an energy community as a

possible energy source for zero-emission buildings and requires EU countries to put measures in place to ensure adequate information and training including for energy communities as a relevant market actor.

Finally, within the framework of the Social Climate Fund Regulation (EU) 2023/955 the Member States may target vulnerable households, micro-enterprises, and transport users through energy communities.

2.3 Challenges

In general, the transposition of the provisions for RECs and CECs at national level has been delayed. It is important to note that each Member State has faced a unique situation, as some countries have a rather long tradition of legally defining energy cooperatives, while in other this concept is completely new. The national authorities have to consider the existing national backgrounds and appropriate the legislation accordingly. Several main challenges emerge as critical to the effectiveness and development of LECs in the EU and national contexts.

The main issues for successful transposition and implementation, hence, remain the definition(s) of the concept of 'energy communities' and their clarity. The national frameworks create either 'copy-paste' or accommodated and coherent definition. It is necessary that the definition corresponds well to the reality of the 'ecosystem' of already existing energy communities while following the European regulations. The lack of uniformity might make the cross-border cooperation and LECs market integration challenging.

National authorities shall identify and put in place favourable measures for local energy communities so that their uptake is facilitated and can smoothly progress without disrupting their current functioning. Most Member States that transposed the provisions into their legislation left the regulation of enabling framework provisions on their secondary legislation. **An effective enabling framework hast to be developed so that the LECs can participate in the market without discrimination compared to other market actors.**

It is important that the autonomy principle is respected in the provisions on governance and control of the LECs. EU legislation intends to protect LECs from commercial capture. That is why Member States shall provide LECs with clear guidelines on control and governance structures.

On a participation level, the geographical and technical proximity might occur as one of the challenging aspects when delimiting the scope of a LEC. Proximity rules shall again be coordinated on the EU level to ensure equal footing for the LECs in the single market rules. A better clarification on the European level would be useful.

Energy sharing emerges as a challenge, while being a central aspect of the success of LECs. It is mainly linked with technical issues regarding the balance between local energy production and consumption. Integrating community-based generation to the larger energy grid might occur problematic in some cases. However, LECs might bring balance to the electricity demand in real-time and enable storing locally generated solar energy surpluses. Moreover, when energy prices are volatile, LECs deliver heat and electricity at fair and stable prices.

3 Regulatory framework in the pilots' countries

3.2 The Netherlands

The new Energy Act (*Energiewet*) aims to accelerate the energy transition by making the Dutch laws and regulations more closely aligned to the European legislation, including with the newest 'RED III' (EU/2023/2413) directive. New rules shall be more consistent and coherent given that they exist under single framework. It shall encourage the customers to take action and participate in the energy transition while being better protected. The Act was approved on 10th December 2024 by the Dutch Senate and its introduction shall take place in phases from 1 April 2025 onwards. The New Act merges the existing Electricity Act and Gas Act and provides a clear legal framework for regulations. The new Energy Act affects the provisions on energy communities as well. Importantly, energy communities are recognized in the Energy Act as a new player in the energy market.

In addition to the *Energiewet* itself that is also part of the national Recovery and Resilience Plan, the Ministry of Climate and Green Growth is working on an Energy Decree: a General Measure of Management (AMvB) and three ministerial regulations (MR). They consist of general arrangement, a measurement arrangement and a data regulation. These additional rules, developed in close cooperation with the sector, will complement the Act with practical details. They are yet to go through a formal process but will be treated as a single 'dossier'. A phased introduction of the Decree and regulations in the second half of 2025.

Legal provisions

The Energy Act transposes both REC and CEC definitions into a single concept called 'energy community' (*energiegemeenschap)* as a: *'legal entity that carries out energy market activities on behalf of its members, associates or shareholders and whose main objective is to provide environmental, economic or social benefits to its members, associates or share-holders or to the local areas in which it operates, and is not aimed at making profit'* [Article 1.1]
Furthermore, in the Article 2.4 (subsection 1), the Energy Act specifies rules on participation and control over the energy community

> *"An energy community shall include in its statutes, or, in the case of a partnership, in an agreement, at least that:*

a. *participation in the energy community is open and voluntary;*
b. *members, partners, or shareholders have the right to leave the energy community; and*
c. *effective control of the energy community is vested in members, partners or shareholders who are natural persons, micro enterprises, small enterprises, municipalities, water authority (waterschap), provinces or joint schemes."*

RECs are defined as a specific kind of energy community that focuses on local and renewable energies and have stricter requirements than the CECs. As provided in the subsection 2 of said article 2.4, REC shall give effective control of the energy community to those shareholders located in the vicinity of the renewable energy project, who shall have equal voting rights as well. REC can only include natural persons, local authorities, or SMEs as shareholders.

The autonomy principle is not well reflected and substantially missing, which means that the definition has not been transposed accurately, omitting to mention this detail. Nevertheless, the Dutch transposition is successful in creating a single concept for an energy community that still properly distinguishes between the different participation and geographical requirements for CECs and RECs.

So far, legal provisions were completed by explanatory notes that may provide clarity in the explanation of definition's (and merging) rationale, which can equally enhance potential market uptake for LECs.

The definition is largely open to all legal persons, regardless of form, including 'partnerships' (*personenvennootschappen*). The new Act does not provide specific details on participation and 'governance' principles. While this might result in a lack of clarity, the Dutch government has a mandate to adopt additional rules. Activities of energy communities are subject to regulatory oversight. However, no authority oversees the process of registration of LECs or compliance with the conditions for establishing LECs. This might however create a potential risk of abuse by commercial market actors. Regarding the control, municipalities and provinces may establish, though, a regulation that anyone who develops an installation for wind or solar projects must motivate what efforts have been made to achieve 50% of local ownership. Municipalities can impose sanctions if the obligation is insufficiently met.

It is important to note that the clarity of definition of the energy communities depends equally on the upcoming Act on collective heat (*Wet collectieve warmte - WCW*). The proposal has been submitted the 19th June 2024 to the House of Representatives *(Tweede Kamer*) and is expected to come into effect in 2025. By the time of writing, the Act has been examined in both Committee on Economic Affairs and Climate Policy and the Committee on Climate and Green Growth. A number of amendments was drafted mainly on rules of governance, ownership, equal voting rights and organisational models of heat communities. According to the Report from 19th November 2024, the climate Committee considers the bill sufficiently prepared to be discussed in the lower chamber, under condition that the government *'will have answered the questions raised and the comments made in a timely and satisfactory manner'*. The bill shall be discussed in the summer of 2025.

What is important, the Act on collective heat introduces a term 'heat community' that is a 'legal person or partnership that':

a. *operates as a heat company for the benefit of its members, partners or shareholders;*
b. *has as its main objective the provision of environmental, economic or social benefits to its members, associates or shareholders or to the local areas in which it operates;*
c. *is not aimed at making a profit; and*
d. *uses renewable heat sources as its main heat source;*

It thus proposes a similar concept as renewable energy community. Indeed, the new Act is one of the ways in which the Netherlands implements relevant European directives and regulations, especially the aforementioned Directive 2018/2001/EU. What is more, according to Article 2.3. of the Act, the 'heating community' stipulates that a heat community shall ensure 'at least' the limited criteria on member's nature, a voluntary participation, a right to leave and an effective control by members that are located in the vicinity of the collective heat unit. Therefore, it respects the 'geographical proximity' principle that distinguish a REC from a CEC.

The term of 'heat community' is interlinked with another term that is introduced in the WCW the 'heat company', that should ensure more place-based approach for heating. The control should be handed to municipalities, rather than private actors or central government. The bill proposes to use the term 'heat community' to make it clear that the renewable energy community is active as a heat company.

Dutch heating infrastructure deals with high dependency on gas and problems brought by the infrastructure's privatization which causes limited access for citizens, cooperatives, local authorities and thus also for energy communities. One of the aims of the Collective heat Act is to develop collective heat systems that do not emit greenhouse gases.

One important evolution that comes with the new Energy Act is linked with energy sharing. Under the previous legislative framework of Electricity and Gas Laws, it was practically impossible to share energy with fellow members of an energy community (except through an 'Experiments Scheme'). The new Energy Act provides with more flexibility for selling, buying and sharing electricity within a LEC. Energy communities will now be able to share their own generated energy within the LEC under their own conditions, if all members are at the same cooperative supplier. When municipalities are members of an energy community and have a share in production, they are obliged to make 10% of production available to vulnerable households.

> *An active customer or a connected party within an energy community has the right to share energy if:*
>
> e. *the active customer or energy community enters into an energy sharing agreement with a supplier offering energy sharing;*
>
> f. *each active customer or connected party within the energy community has a supply or feed-in agreement with the supplier referred to under a.*
>
> *[Article 2.30]*

Furthermore, an energy community that produces electricity or gas may supply it without a licence if:

> *1°. the energy community does not supply more electricity or gas over the period of a year than it imports into the system on an annual basis;*
> *2°. is supplied to final customers with a small connection who are members or shareholders of the energy community; and*
> *3°. the energy community does not have more members or individual share holders than a number to be determined by ministerial regulation*;

Enabling frameworks

In general, the participation in energy communities is being supported. The Dutch Climate Agreement even sets out a non-binding policy objective to have 50 % of locally owned renewable energy (PVs and wind) on land by 2030. However, there

are many specific elements that have not been addressed yet. Some obstacles to form an energy community still persist. Recently, the Dutch government has adopted funding instruments that help energy communities with preconstruction activities. Support scheme is dedicated for such energy cooperatives that engage in RES production activities. Regulatory burdens are yet to be assessed by the central government.

Furthermore, we can perceive that municipalities are reluctant to set up partnerships with citizen-led initiatives because they are worried about incurring in violation of State-Aid regulations. However, a positive evolution in recognizing local energy communities in form of the 'heat communities' can derive after the adoption of the new Collective Heat Act (WCW). Still, energy communities do not have resources (financial, technical, administrative) that would allow them to successfully support their existence so far. Ultimately, LECs have to face purely technical issues linked with grid congestion problems and grid connectivity codes that must be further developed by the Dutch Authority for Consumers and Markets.

EXAMPLE: Grunneger Power

Born in 20211 from an enthusiastic group of neighbours in Groningen who wanted to collectively generate renewable energy, this energy community managed to expand into different areas of the city and now produce and supply energy from solar installations (ground and roof solar panels installations) that are 100% owned by residents.

Structured as an energy cooperative, the community is active in different areas: not only solar electricity but also solar heat generation and supply. Residents can decide to become a member, or simply be a customer of the cooperative, that provides green energy via a separate legal structure, the cooperative energy company Energie VanOns.

When the municipality started developing a district heating network, Grunneger Power became involved to bring the benefit of renewable district heating to all residents. To convince them to connect the local district heating network, and make the switch from gas powered heating, they developed educational materials, visited many homes and organised events and informal gatherings. Via the cooperative, residents play an active role in the project, mainly to define the roll out and overall influence decision making over the network. The action of the energy community brought the required number of residents to join the local heating network, allowing the project to move forward.

The cooperative is also active on energy saving (renovation) and providing energy advice, with the objective of fighting energy poverty. People can request the support from their

energy coaches. Energy coaches are active in many municipalities in the Netherlands. These are volunteers who dedicate around 12h per week to give advice to residents about possibilities to save energy.

Learn more at https://www.grunnegerpower.nl/

3.3 Belgium (Flanders)

ACCU Belgian pilot, the city of Bruges, is subject to the legislative framework of the Flemish Region (Flanders). The Energy Decree (Energiedecreet), a norm that transposes the relevant EU legislation and the energy communities definitions, frames the 'energy community' as a single concept. Under this concept Flanders determine two slightly different notions of the concept. **Nevertheless, a coherence around the concepts was secured. Flemish definitions do not add, nor subtract anything compared to the EU definition.**

The Energy Decree outline the purpose of energy communities and the requirements they are submitted to. The main purpose of the LECs is to provide 'environmental, economic or social benefits to the members, associates or the environment in which the LECs operate'. An energy community cannot pursue a purely economic and profit-oriented objectives. **The legislative framework put a strong emphasis on the participation and empowerment of citizens and households in the energy market.**

Legal provisions

The governance and control framework are defined in the same way as in the directives. The Flemish Region defines citizen energy community (energiegemeenschap van burgers) as a *"legal entity based on an open and voluntary participation of its associates or members, whose main purpose is to provide environmental, economic or social benefits to its associates, members or the environment in which it operates, which has no profit motive or a profit motive that is subordinate to its main purpose"* (Article 4.8.1.) Furthermore, the associates or members, *"in their capacity as customers or consumers of 'thermal energy', are each connected to an electricity distribution network, the local transport network of electricity, a closed distribution network of electricity or a heating or cooling network."*

Regarding the control over the activities of the CEC shall be exercised by the *"natural persons, local authorities or small enterprises not involved in large-scale commercial activities and for whom the energy sector is not the main economic activity"* who are the members or partners of the said CEC.

Finally, the members or associates of the same CEC shall each conclude an agreement with the CEC on their respective rights and obligations. If energy sharing is carried out within the energy community of citizens, the agreement shall contain the rights the share of energy that each member is entitled to. This means an application of the so-called 'energy sharing key' which is clearly predefined in the contract and based on people's investment and/or needs.

What is important for the storage of shared energy, the Flemish regulator (VREG) applies the simultaneity principle for energy sharing. It means that energy can only be shared to the extent that the produced energy gets consumed 'right away', which is defined as 'within 15-minute intervals' which are commonly applied in Flanders. The grid operator DSO keeps stock of the data and who informs the electricity suppliers. The supplier is supposed to reflect the real use, detected through said data, on the electricity bill. **Unfortunately, grid fees are still charged on the "shared energy" that is making the concept largely burdensome and not economically interesting to the end-consumers.**

The renewable energy community (hernieuwbare-energiegemeenschap) in Flanders is a *"legal entity based on the open and voluntary participation of its associates or members, with the main purpose of providing environmental, economic or social benefits to its associates, members or the environment in which it operates, and which has no profit motive or a profit motive that is subordinate to its main purpose"* (Article 4.8.2.) Additionally, the REC's activities of energy production, self-consumption, sale of energy and energy shares shall only relate to energy from renewable sources.

The partners or members of the renewable energy community are natural persons, local authorities or small and medium-sized enterprises (SMEs), whose participation in the energy community is not their main commercial or professional activity and which are located in proximity to the renewable energy projects of the REC. The associates or members, in their capacity as customers, are each connected to an electricity distribution network, the local transmission network of electricity, a closed distribution network of electricity, a heating or cooling network. The associates or members have control over the activities of the REC and are autonomous with regard

to the individual members, associates or other market participants who participate in the REC through other means, such as investment.

A renewable energy community shall limit participation based on technical or geographical proximity, considering the function of the objectives or activities that the REC intends to achieve. A REC shall have ownership rights to the installations it uses to carry out its activities.

Furthermore, the members or associates of the same renewable energy community shall each enter into an agreement with the REC in regard to their rights and obligations. If energy sharing is carried out within the REC, the agreement shall lay out the rights and obligations of the members or partners for the applied 'energy sharing key'. Each renewable energy community shall determine in its statuses the rules on the governance and control of its members or associates, hence respecting the autonomy principle of a REC.

The Flemish legislation introduces monitoring and oversight measures as well. Each CEC or REC shall inform the Flemish regulator (VREG) about:

1. Activities it pursues and/or any change to those activities
2. The way in which it is composed and, if applicable, the way in which it complies with the concept of technical or geographical proximity

Ultimately, any CEC may undertake one or more of the following activities:

1. produce energy from an installation, directly connected or indirectly connected via the connection of associates or members of the CEC to an electricity distribution network, the local transport network of electricity, a closed distribution network of electricity or a heating or cooling network, where the CEC is the owner or has the user rights of the production installation;
2. self-consumption of the energy mentioned in point 1;
3. store energy;
4. offer or participate in energy services;
5. act as a service provider of flexibility or participant in flexibility or aggregation;
6. sell the energy mentioned in point 1°, including with a power purchase agreement;
7. offer charging services for electric vehicles;

8. share energy, between partners or members, of the energy mentioned in point 1°

Every REC may carry out the activities referred to above if it relates to green electricity from an installation directly or indirectly connected via the connection of partners or members of the REC.

The management of the facilities connected to the electricity distribution network, local electricity transmission network, closed electricity distribution network, heating or cooling network, which are necessary to carry out the activities mentioned, may be delegated by the CEC or REC to a third party, including with regard to installation, operation, data processing and maintenance where the third party shall not be considered a CEC or REC.

What is important from the financial aspect, *"the LECs are financially responsible for the imbalances they cause in the electricity grid to the extent they were designated as access holders at the access points of their associates or members"*.

If necessary to carry out one of the aforementioned activities (except for point 4), the partner or member of CEC or REC shall be equipped with a meter which measures separately the energy taken off and the energy injected into the distribution network, whose measured values shall be recorded on at least every imbalance settlement period and processed in accordance with the technical regulations.

Enabling frameworks

Reflecting the passed legislation on LECs, the Flemish government have commissioned an assessment identifying the potential of community energy in the region, and a more recent report from 2024 focusing on updates about energy communities in the regulatory framework and describing some of the barriers that hinder the uptake of LECs.

In the report, VREG raises concerns mainly around the application conditions for the two types of LECs, that are perceived as too vaguely and broadly defined. VREG mentions specifically the provisions on non-involvement in commercial activities. Moreover, significant overlaps between the two types of EC are found unnecessary, and VREG calls for review and adjustment process of the relevant regulations. One of the supported arguments is that clearer application conditions would facilitate the monitoring and would further lead to a decrease in

the number of unjustified reports as an energy community. Notification and recognition procedures shall be reviewed as well. One of the important issues that was identified is equally the external communication and information sharing with potential users.

An enabling framework for RECs and CECs has not been completed yet. Access to information and financing as well as the lack of cost-reflective network charges based on a transparent cost-benefit analysis represent particularly important transition gaps, which underscores the weakness and fragmentary nature of the framework. Access for vulnerable and low-income households should be facilitated as well as it should support capacity building of local authorities.

Nevertheless, the Flemish Government has put in place Technical Assistance Hubs (TEAH) to support local actors through providing subsidies and other support in setting up a local energy community, especially those focusing on people in situation of energy poverty. 'Energy Houses' have been set up at municipal level to provide information, financial and other assistance to citizens and communities.

At the Federal level, a support scheme to promote offshore renewable energy development includes specific provisions to ensure energy communities can participate in financing and ownership of offshore wind projects. However, energy sharing does not provide a benefit to the grid at the moment, according to a cost benefit-analysis provided by VITO (Flemish Institute for Technological Research). Overall, the regional government still needs to develop further measures to create a fully functional enabling framework for LECs.

EXAMPLE: Energent

Energent is an energy community active in East Flanders (Belgium) funded as a social enterprise in 2013 with the objectives of:

- Uniting citizens in their quest for a sustainable and climate-neutral society;
- Investing in renewable energy production, achieving energy savings or providing energy services and attracting the necessary financial resources for this purpose;
- Invest the profit after a fair return on the capital on local socio-ecological projects;

- Involving as many people as possible in its projects, including vulnerable households.

The cooperative is active in 3 main areas:

- Investing in renewable energy projects, such as solar, wind and renewable heat. People can become members by purchasing a share for 100 euro. Unless a capital call is launched, people can buy a maximum of three shares. Each co-operator can own a maximum of 100 shares. If possible, a dividend is paid annually - recently they have been able to pay an annual dividend of 3%.
- Making home more energy efficient, by offering energy services to citizens, such as group purchases and neighbourhood renovation projects.
- Contribute to innovation around the future of renewable energy, via its participation in numerous research projects.

The energy community has built a strong relation with many municipalities in its area. Residents can invest in installations built on municipal buildings. Energent manages these installations for a long period of time, thus relieving the municipalities from maintenance costs. Municipalities purchase the solar power from the installations at a lower rate than the market, while progressing towards its climate goals.

Energent develops and implements various types of sustainable heating projects and investigates investment opportunities in various heating technologies. In residential heating projects, Energent invests in the (fossil-free) heating system, including deep drilling, pipes, heat pumps, etc. Both the construction and the management are done by Energent. The residents then pay for the heat they use. In addition, Energent develops, finances and manages fossil-free boiler rooms for organisations with high heat demand (schools, hospitals, residential care centres, etc.) and studies the possibility of developing new heat networks based on residual heat in various industrial areas.

More information at https://energent.be/

3.4 France

In France, provisions on both citizen energy communities (*communautés énergétiques cityoennes*) and renewable energy communities (*communauté d'énergie renouvelable*) were published in an 'Ordinance No. 2021-236' in March 2021. The Ordinance was followed, first by a law LOI n° 2023-175 on 'acceleration of the

renewable energy production' (also *Loi Aper*) from March 2023 that clarified the transposed revisions, and second, by an Application Decree, finalized it October 2021 but only published in December 2023.

Legal provisions

Regarding the definitions of REC and CEC in the French regulatory framework, they are nearly a copy-paste of the definitions featured in the EU directives. French authorities have not intended to create a single definition and/or align the criteria that are set forth by the two definitions. Dans le *Code de l'Energie* (Energy Bill) the REC are defined by Articles L291-1 to L291-3. CEC definition appears in provisions Articles L292-1 to L292-4.

If we have a closer look on the Application Decree, the definitions emphasize the autonomous nature of LECs as well as the fact that they are founded on 'open and voluntary participation'. Although the relevant EU directives only foreseen the application of the autonomy principle for REC, the French provisions apply them on both CEC and REC. The importance of the autonomy aspect originates from already existing provisions within French company law.

The eligibility aspect significantly distinguishes a REC from a CEC. There exist strong restrictions for companies to participate in RECs, whereas the CEC definition explicitly states that there are no restrictions to involvement. CEC are therefore more vulnerable to corporate capture, which can be perceived as going against the rationale of the EU Directive. **No monitoring role is assigned to the regulatory authority which enhances the risk for corporate capture and may trigger a lack of trust in the concept of energy communities**.

The Decree equally adjust some rules on the status of energy communities, mainly in reference to the involvement of local authorities and their capital. Moreover, through the Decree's provisions, new limits to the voting rules within an energy community are added, a company and its employees are prohibited from holding the majority of voting rights, so the autonomous nature of an energy community is not challenged.

Furthermore, the geographic proximity very depending on the number of participants in a LEC. Exclusively for the REC, it underlines the geographical proximity that is attached to the effective control over de REC. There is therefore no single geographical criterion, but rather a myriad of geographical criteria linked to

the nature of the member effectively controlling the renewable energy community.

Enabling frameworks

French authorities have taken significant steps in the transposition process of the recent regulations. The dissemination of activities around operational energy sharing seems to be meaningful and encouraging for a number of territorial actors. However, the accompanying **enabling framework for energy communities is still missing**.

After initial works on a framework for collective self-consumption, French authorities also set policy objectives for development of energy communities, but concrete steps and measures were not implemented. The debate on enabling framework was further fed through a national stakeholder convention of energy sector actors. From November 2021 onwards, the pluriannual energy programme has been responsible for the development of LECs through the inclusion of a roadmap for the development of LECs. The roadmap sets forth 10 steps to put in practice an objective of a 'thousand citizen-led initiatives by 2028'. However, these measures are not fully put in place and RECs still cannot benefit from the national support schemes for RES production.

Some of the legislative enabling elements that are missing in the perspective of the territorial actors and LECs stakeholders are: clarification of definitions, identify the gap between existing definition(s) and the current LEC ecosystem 'on the ground', or try to predict future adjustments to the definition that will be necessary.

Other challenges that the French framework face may relate to uneven playing field in tendering processes, especially for RECs against traditional market actors. RECs are not favoured as a citizen-led initiative either. Furthermore, energy community projects can only benefit from either national, or regional support scheme which limits their evolution and economic viability.

EXAMPLE: Énerg'Y Citoyennes

Énerg'Y Citoyennes is a community created by residents of the Grenoble metropolitan area with the aim of producing energy from renewable sources and promote energy management. Funded in September 2016, it brought together residents with local

authorities and players in the energy transition to collectively meet the ambitions of the regional Air Energy and Climate Plan and engage residents in the life of their city. For the municipality to hold shares, the community was set up as a Société locale par Actions Simplifiées (SAS). This structure also presented some advantages in terms of management of the energy community (statute, composition of capital etc).

The community is active in the production of electricity from 32 roof solar installations (around 3 150 MWh generated) and heat from wood powered boilers (around 14 538 MWh generated), with 6 district heating networks currently under development in the metropolitan area, and additional projects under study.

Thanks to its connection with the metropolitan government of Grenoble Alpes, the community has a cooperation agreement with the Distribution System Operator (DSO) Enedis, so that they can ask for connection cost evaluations during the pre-study phase of their solar projects. This allows them to know at a very early stage if a project of a given power is feasible from a connection point of view (technical and financial feasibility). In the agreement, Energ'Y Citoyenne included annual plans with the city and Enedis, to review the connections and try to dialogue with Enedis to know as much information as possible up front, i.e. how they evaluate, etc. Also, during these plans, if there is a complicated project with different interlocutors in Grenoble, Enedis helps to find different solutions to unblock the situation. During the development of these plans, Energ'Y Citoyennes shares with the metropolis how much the connections have cost, or what is blocking them.

Via a separate legal structure, set up in 2022 as an association, the community is actively promoting renewable energy use and a reduction of energy consumption in the metropolitan area of Grenoble. Via its members, it raises awareness and provide advice to residents on topics such energy sobriety, energy efficiency, energy poverty reduction and production of renewable energy.

More info at https://energy-citoyennes.org/

4 Comparative summary

In comparing the regulatory frameworks for local energy communities across the Netherlands, Flanders, and France, several similarities and differences emerge, particularly regarding legal definitions, governance structures, and enabling frameworks.

If we take into consideration the Dutch Energy Act that has been recently adopted and will enter fully into force on 1 January 2026, all three countries have aligned their regulations on energy communities with EU directives and regulations. This ensure that energy communities are primarily defined as legal entities that provide environmental, economic, or social benefits, rather than pursuing profit-driven objectives. In addition, a legal definition and recognition of heat energy communities such as the one formalised in the upcoming Dutch Collective Heat Act is not present in Flanders nor in France.

We can perceive, however, that the Dutch and Flemish legal systems frame REC and CEC as an integrated single concept (of an energy community) with slight difference in details regarding the participation measures and geographical proximity. French legal framework distinguishes the definitions of REC and CEC more clearly as two separate notions and focus on their specific characteristics. However, in all three countries, the exact scope and nature of energy communities are still evolving.

Governance and control structures are key elements for all three of the systems. They all seek to put an emphasis on the principle of autonomy of the communities. The Dutch and Flemish frameworks emphasize democratic participation criteria, where control remains with natural persons, municipalities or SMEs. In contrast, the French framework applies the autonomy principle to both CECs and RECs, with stricter rules to prevent corporate capture in RECs. However, French CECs are more vulnerable in this regard. The system is overall vulnerable to exploitation by larger, non-local actors. In the Dutch context, no authority has an effective oversight on registration process which may also create a risk of abuse by commercial market actors.

The Dutch system introduces energy sharing and allows local communities to share their energy more freely. Municipalities shall ensure that a legal provision regarding 50% threshold for local ownership is respected. The flexibility is equally present in Flanders, though energy sharing in the Flemish region is subject to more complex

rules. For instance, they have to comply with the simultaneity principle. However, they face challenge in ensuring compliance with proximity requirements.

If we consider the respective enabling frameworks, all three countries are working on implementation of certain supportive structures to an extent. However, significant gaps remain in all of the present frameworks. Moreover, the Dutch government is developing additional regulatory measures but concerns about the role of municipalities and grid congestion persist. An enabling framework is still under development in Flanders. At the moment, Energy Houses serves as a place where assistance can be provided to the citizens. Specific gaps in financial and technical support to vulnerable households were identified. In France, the roadmap for the development has been formulated, but struggles to present concrete measures and support schemes, especially for RECs. This might create an uneven playing field for the concerned actors.

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