

## Energy transition - without citizen participation?

Renewable energy is the key to climate neutrality and energy independence. It's not a question of whether or not the energy transition will happen: the EU Green New Deal, and the Recovery and Resilience Package of the EU are setting the policy framework for all member states. The question is *how* the transition will take place? And who will benefit from the transition the most? Who will use and benefit from the millions of Euros channelled by Brussels? Will it be governments or the large companies already dominating the market? What about small companies, start-ups, innovators, or interested citizens?

The laws passed by the Croatian Parliament, the Sabor, at the end of 2021, give cause for concern that Croatia is not transposing EU directives properly, and the country's citizens will be left behind. A detailed analysis of the „Electricity Market Act“ (OG 111/21)“, and the „Renewable Energy Sources and High-Efficiency Cogeneration Act“ (OG 138/2021) and a series of conversion with numerous stakeholders (NGOs, local governments, representatives of the ministries, academic community and industry) led to the following main conclusion: The new laws minimize possibilities for the citizens to participate in the energy transition, independently and from forming energy communities. Administrative and legal procedures create unnecessary and prohibitive barriers for the functioning of citizen energy communities<sup>1</sup>. Some provisions of the directives have been literally transposed, without adaptation to local conditions and do not offer specific mechanisms for implementation. Inconsistent definitions in the new laws can lead to different interpretations of the law, creating legal ambiguity and presenting opportunities for favoritism and corruption.

This is a sharp contrast to the goals of the RED II and IMED directives.<sup>2</sup> The main barriers relate to (1) the legal formation of energy communities, (2) the geographic area where communities may operate (3) limited membership (4) and the complex and expensive procedures, unsuitable for small organisations, as follows:

1. The Citizen Energy Communities must be a non-governmental organization. In contrast, the EU directive does not limit forms of non-profit organisations that can be established (e.g. social enterprise).
2. a) The Citizen Energy Communities are defined in the area of only one unit of local self-government (municipality or city, LGUs), of which there are more than 500 in Croatia  
b) It is only possible to share electricity in the area of the same low voltage substation (of which there are more than 26,000 in Croatia),

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<sup>1</sup> A citizens energy community (here we also use shorter version - energy community) is voluntary legal not-for-profit entity established at a local level for the purpose of energy generation, distribution, supply, consumption, aggregation, storage. The citizen energy community should not be mixed with the *Energy Community* which is an international organisation (more about the Energy Community at <https://www.energy-community.org/>).

<sup>2</sup>IMED - Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU has a dedicated **on consumer** empowerment and protection. Renewable Energy Directive 2018/2001 (RED II) sets renewable targets.

while for Renewable Energy Communities sharing the produced renewable

energy is only possible within the same building or bloc of buildings, which radically reduces sharing potential even at the level of smaller settlements.

3. There are limitations for participation in citizen energy communities: only 1 LGU can be member of an energy community, and membership of citizens is conditional on ownership of the dwelling and residence. Rules for SMEs are ambiguous.
4. The necessary legal and administrative procedures are complicated and expensive for small organizations: citizens energy communities have to register in the Register of Non-Profit Organizations (due to the manner of keeping books), obtain a license to perform energy activity (from the Energy Agency) and enroll in the Register of the Citizen Energy Communities maintained by the Agency.

1. Citizen Energy Communities have to be a legal person and keep accounts according to the rules governing financial operations and accounting of non-profit organizations.<sup>3</sup> This excludes social enterprises and limits the functioning of co-operatives, giving preference to non-governmental organisations.
2. a) There are 555 units of local self-government in Croatia: 127 cities (70% of which have less than 15.000 inhabitants) and 428 municipalities (64% of which have less than 3000 inhabitants; there are 37 municipalities in Croatia with less than 1000 inhabitants). The small number of inhabitants in these communities, combined with lack of capacity among many LGUs to carry out the allocated functions, significantly limits the potential and the justification for establishing energy communities among these communities. On the island of Krk, which has established ambitious targets regarding climate neutrality, there are 7 LGUs.  
b) The sharing of electricity is allowed only to members of the citizen energy community connected to the same low voltage substation. There are more than 26.000 of such stations in Croatia, thus the potential to share energy is almost non-existent. Sharing energy produced by renewable resources is limited to the same building or bloc of buildings, provided that they are connected to the low-voltage lines of the common medium-voltage distribution substation, which excludes sharing renewables in rural areas.

There are significant limitations for participation in citizen energy communities and communities reliant on renewable sources of energy for LGUs, SMEs and individuals. Only one LGU can be a member of the citizens energy community and the seat of the energy community has to be in the area of that LGU. Two neighboring LGUs cannot be members of the same community. Regarding SMEs, the general definition enables participation of SMEs in citizen energy communities and renewable energy communities. However, the definitions of small and medium size companies are ambiguous. There are also limitations for participation of the SMEs in the energy communities depending on their ownership structure and professional activities. A member of the energy community may not have more than a 40% share in the ownership of a legal entity of another member of the same energy community. For individuals, there are limitations for their participation based on residence and ownership issues. People living elsewhere (workers working abroad, holiday home owners) are excluded from joining an energy community. This affects a considerable number of people – especially affluent ones. It

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<sup>3</sup> i.e. based on the Act regulating the financial operations and accounting of non-profit organizations (OG 121/14)

is not clearly defined whether people living in rented homes can be members of the communities.

3. The Requirement to be listed in the Register of Non-Profit Organizations is standard requirement for organisations that keep books in line with rules for non-profit organisations. Obtaining a license for energy activity for an NGO is a rather unusual requirement, as the Energy Law defines that energy activities are performed either as market based activities or public services. The primary purpose of the citizen energy community is neither of these: they 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. Obtaining a license requires meeting stringent technical and financial criteria, which might be prohibitive for a small non-for profit organization. In addition, lack of professional capacity is likely to significantly limit establishment of the communities. Finally, after getting the license from the Energy Agency, enrolling in the *Register of Energy Communities of Citizens* maintained by the Energy Agency seems as unnecessary requirement for communities; it should be task of the Energy Agency.

To speed up the energy transition, to make it inclusive, and to raise its acceptance among Croatian citizens, it is imperative to revise the „Electricity Market Act“<sup>2</sup> and the „Renewable Energy Sources and High-Efficiency Cogeneration Act“ regarding:

- 1. Increasing the local areas in which citizens and their communities can perform their activities**
- 2. The revision of the criteria for participation in Citizen Energy Communities**
- 3. The simplification of legal and administrative procedures (i.e. accounting rules, listing in registers, obtaining licenses).**