



Regulatory and legislative challenges for energy communities. Preliminary results of the COME RES Project

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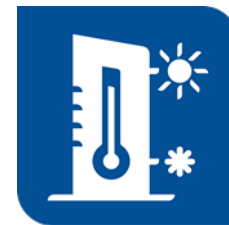
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*Energy Transformation and Climate Change Challenges. 25th REFORM Group Meeting
Salzburg – October 3 – 7, 2022*

Summary

- I. What is COME RES about?
- II. The setting
- III. Framework for community energy
- IV. Key challenges for RECs
- V. The enabling framework
- VI. Monitoring and assessing enabling frameworks for RECs and support scheme designs. The state of transposition of RED II
- VII. Conclusions



COME RES – in a nutshell

‘Community Energy for the uptake of renewables in the electricity sector – Connecting long-term visions with short-term actions’

Aim: to increase the share of renewable energy in the electricity sector, by facilitating the development and supporting the implementation of enabling frameworks for renewable energy communities.

Partners: 16 partners /stakeholder desks in 9 countries (BE, DE, IT, LV, NL, NO, PL, PT, ES)

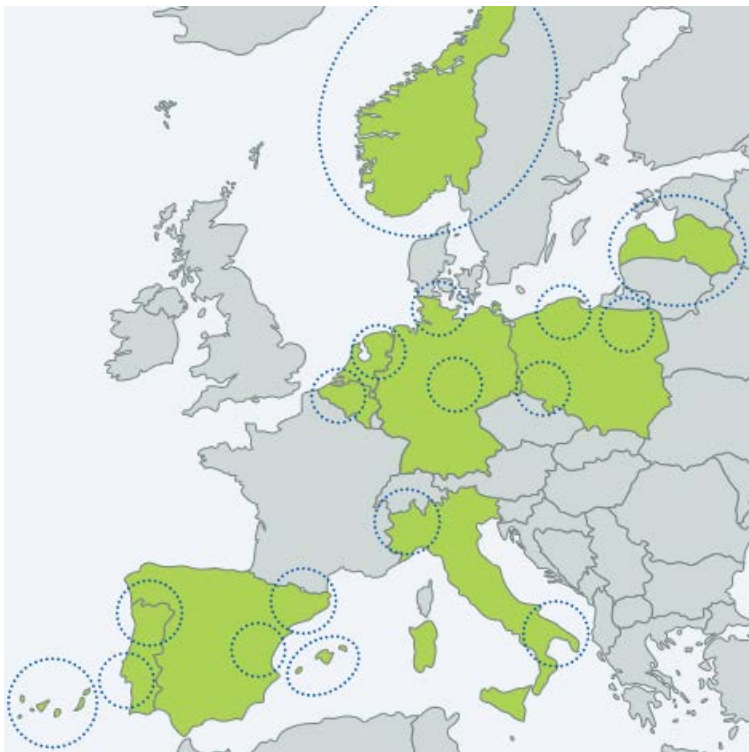


Definition

Energy communities are defined as collective energy projects which:

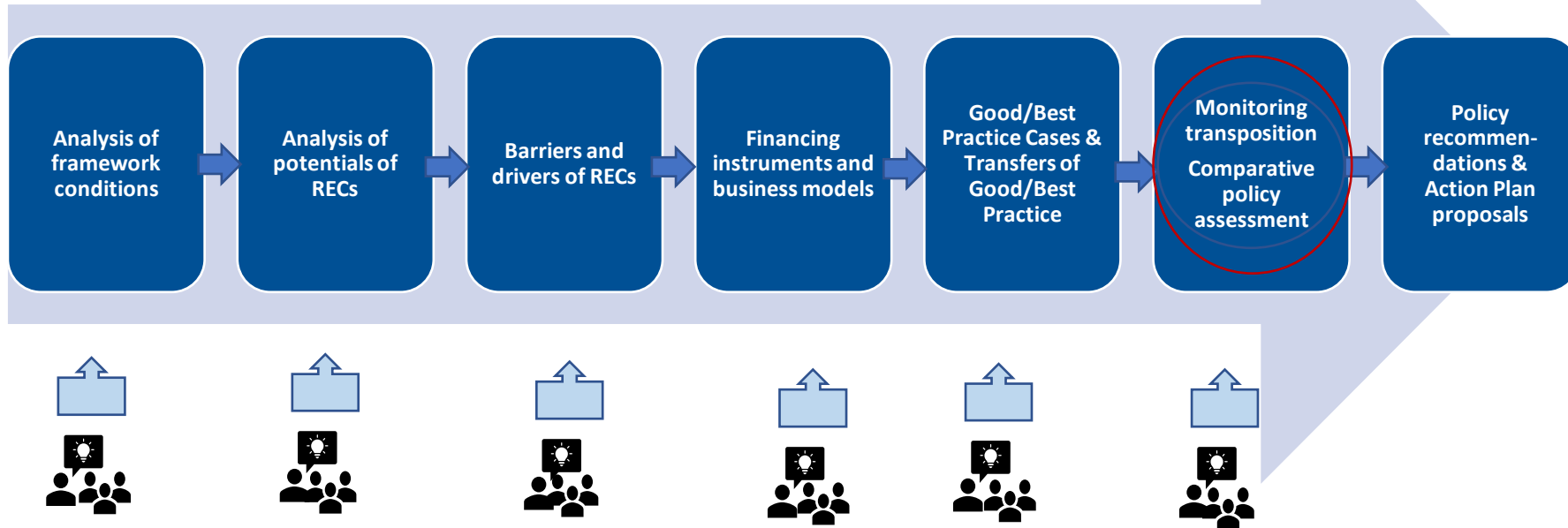
- demonstrate democratic participation and governance, and
- generate tangible and collective **benefits for the local community** (through energy-saving, revenue generation or increased knowledge...)

Regional & technological focus of activities



Country	Target region	Model region
Germany	Thüringia (wind & integrated solutions)	Schleswig-Holstein (wind & integrated solutions)
Belgium (Flanders)	Limburg (integrated solutions)	Province Antwerpen and East Flanders (integrated solutions)
Netherlands	Utrecht/North Brabant (integrated solutions)	Zeeland (Wind), Rijsenhout, Etten-Leur, Woerden (PV/storage)
Italy	Apulia (PV, Wind)	Piedmont (PV, hydropower)
Latvia	Whole country (Wind, PV)	Municipality of Marupe (only citizen PV)
Norway	Whole country (Wind, hydropower, PV, integrated solutions)	Island and Farmers' communities
Poland	Mazovia Province (PV), Lesser Poland Province (PV)	Lower Silesia, Pomerania (integrated solutions), Ochoznica (PV)
Portugal	Region Norte, Alentejo, South (PV)	Lisbon (PV)
Spain	Balearic & Canary Islands (PV)	Catalonia / Region Valencia (PV)

Key project activities



Stakeholder-Dialogues: Country Desks, Thematic Workshops & Round Tables with policy makers

The setting

- Energy transformation also requires a focus on **empowering consumers** to shift from passive consumption to active engagement.
- **Flexibility** is an increasing challenge in power systems as the electrification of society and a rising share of **variable renewables** (wind and solar) are changing supply and demand.
- The literature on social acceptance of renewable energy finds that local **ownership and local benefits** are important dimensions for **social acceptance** as they enable **trust** and influence over processes.
- Community energy provides potential for **a bottom-up transformation** of national energy systems.
- Community energy based on RES can play an important role in the **transition to low-carbon society**.
- Value principles of **benefits, proximity** and **grassroot ownership**.

A new player and a new playing field



With its legislative package "Clean Energy for All Europeans", the EU

- ✓ supports active energy citizens and communities as stakeholders in the energy market
- ✓ empowers citizens
 - ➡ from passive consumers to
 - ➡ active participants in the energy transition.
- ✓ acknowledges the role community energy ownership can play
 - ➡ in helping the EU to meet its climate and energy objectives,
 - ➡ driving local social innovation.

The framework for community energy



- **Directive 2018/2001 RED II (article 22): Introduction of Renewable Energy Communities (REC)**
 - Transposition Deadline: 30 June 2021
- **Directive 2019/944 IEMD (article 16): Introduction of Citizen Energy Communities (CEC)**
 - Transposition Deadline: 31 December 2020
- MS to provide an **enabling regulatory framework** for RECs and CECs
- MS to ensure that RECs and CECs are **treated in non-discriminatory and proportionate way** in their activities as market participants
- RECs have stricter requirements (only RES production and proximity conditions to members)

RECs, CECs and associated regulatory frameworks

- IEMD and RED II contain specific provisions to **enable citizens** to take an active role in community-based (RES) projects.
- Differences between RECs and CECs ➡ but for both: frameworks consisting of rights, responsibilities and privileges.
- Legal dimension: ➡ 3 elements: **purpose, control** and **participation**
- **Purpose**: value over profitability
- Principle of **openness** and **voluntariness**
- Despite the advantages of increasing RECs in local and national power systems, the **starting conditions** are still **challenging**.
- Enabling framework: recognition of communities as new actors in the energy system and allow for a level playing field
- For RECs **particular privileges**: consideration of the specificity of RECs when designing RES support schemes.

Key differences between CEC and REC (II)

	Citizen Energy Community (CEC)	Renewable Energy Community (REC)
Primary purpose	Social, economic and environmental benefits for members/shareholders or the local area in which the entity operates	
Activities	Generation, distribution, supply, consumption, aggregation, energy storage, energy efficiency services , charging services for EV , other energy-related services	Generation, distribution, consumption, storage, sale, aggregation, supply and sharing of renewable energy, energy-related services (commercial)
Enabling framework, support schemes	<p>MS to provide an enabling regulatory framework for CEC</p> <ul style="list-style-type: none"> • Participation is open and voluntary • Members/shareholders entitled to leave • Members/shareholders do not lose their rights and obligations as household or active customers. • DSOs cooperate with CECs to facilitate electricity transfers within the community • Non-discriminatory, fair, proportionate and transparent treatment • Transparent, non-discriminatory and cost-reflective network charges 	<p>MS to provide enabling framework to promote and facilitate the development of REC</p> <ul style="list-style-type: none"> • Remove unjustified regulatory/administrative barriers • Fair, proportionate and transparent procedures • Non-discriminatory treatment • Tools to facilitate access to finance and information; • Regulatory and capacity-building support to public authorities in enabling and setting up RECs • Equal/non-discriminatory treatment of consumers that participate in a REC <p>MS to take into account specificities of RECs when designing support schemes</p>

RECs as of RED II, Article 2(16)

REC is a legal entity

- I. 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;
- II. the **shareholders** or **members** of which are natural persons, SMEs or local authorities, including municipalities;
- III. 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”

Additional requirements for Member States

Article 22 in RED II requires that

- MS carry out an **assessment of the existing barriers** and **potential of development** of RECs (Art. 22(3)),
- MS provide an **enabling framework** to promote and facilitate the development” of RECs (Art. 22(4)),
- the main elements of the enabling framework and of its implementation be **part** of the updates of MS’ **NECPs** and **progress reports** (Art. 22(5)),
- MS take into account the **specificities** of renewable energy communities **when designing support schemes** in order to allow them to compete for support on an equal footing with other market participants (Art. 22(7)).

Elements of an enabling framework for RECs (Art. 22.4 RED II)

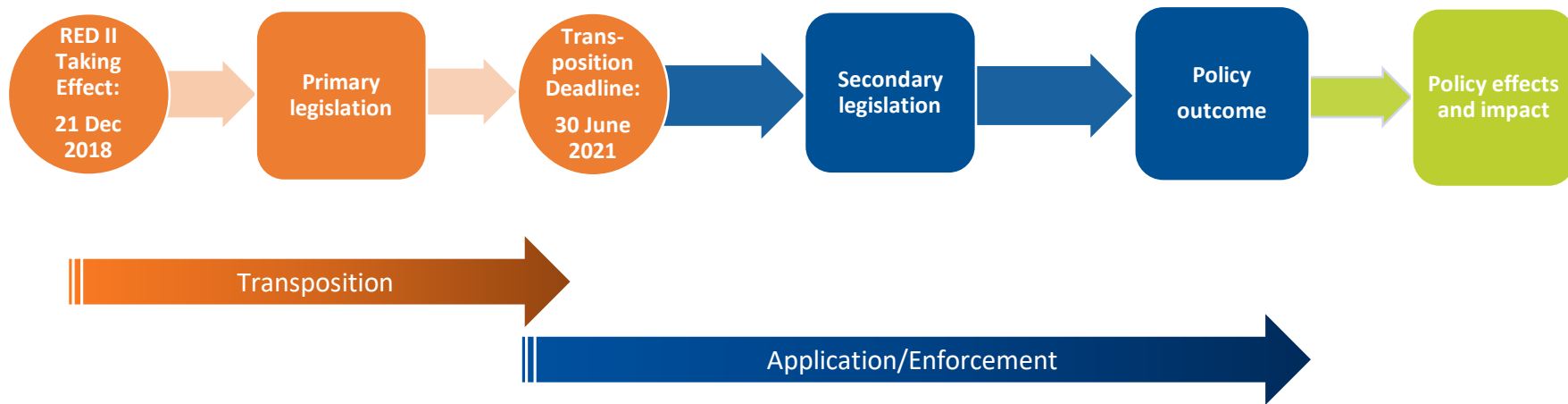
Member States have to ensure that

- **unjustified regulatory and administrative barriers** to RECs are **removed**;
- the **relevant DSO cooperates with RECs** to facilitate energy transfers within RECs;
- RECs are subject to **fair, proportionate and transparent procedures** (...);
- RECs are **not subject to discriminatory treatment** with regard to their activities, rights and obligations as final customers, producers, suppliers, DSOs, or as other market participants;
- participation in the RECs is **accessible to all consumers**, including **low-income or vulnerable households**;
- **tools to facilitate access to finance and information** are available;
- **regulatory and capacity-building support** is provided **to public authorities** in enabling and setting up RECs, and in helping authorities to participate directly;
- **rules** to secure the **equal and non-discriminatory treatment** of consumers that participate in the REC are in place.

Key Challenges

- Different **implementation pathways** regarding the **legal concepts**
- **Pre-existing legal frameworks** in some countries (and other quasi-legal definitions)
- **Autonomy, effective control** by members
- **Access** for all suitable **energy markets** directly or through aggregation in a non- discriminatory manner
- **Energy sharing/ Cooperation with** DSO
- **Equal footing** with other market participants (producers, suppliers, energy service providers)
- Requirement to provide environmental, economic and social benefits (RED II does **not** provide further **specification** of such benefits)
- **Proximity criterion**: (defined geographically or technically/substation) voltage/distance based
- Fair, cost reflective, transparent and non-discriminatory **charges**

Implementation process in the Member States



Progress of the transposition of the REC and CEC definitions in the EU Member States.

REC: Criteria of EU definition reflected in national definition

Italy

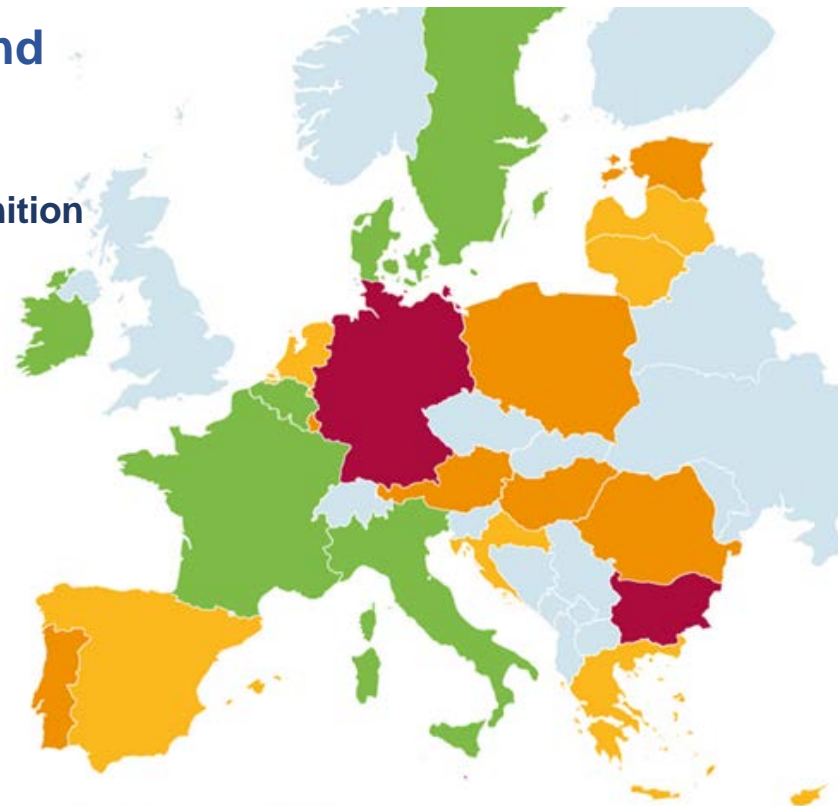
- Openness and voluntary
- Autonomy
- Effective control

France

- Openness and voluntary
- Autonomy
- Geographic proximity
- Effective control

Irland

- Openness and voluntary
- Autonomy
- Proximity
- Effective control



Bad Transposition Substantial deficiencies Average progress Good practice Best practice

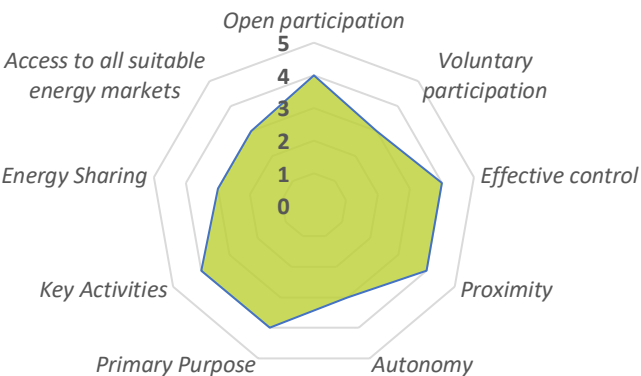
Definitions, rights, market activities



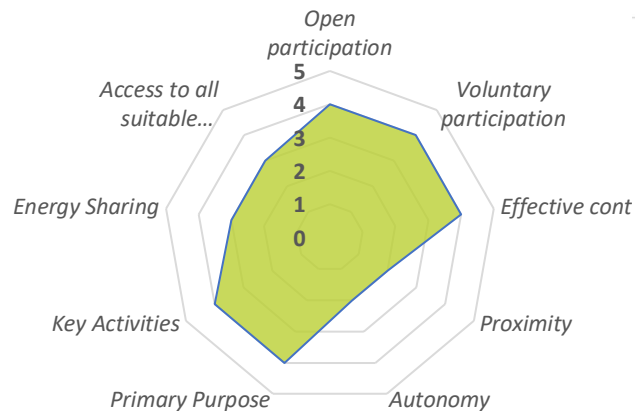
Adapted from Krug et al, 2022
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Definitions, rights, market activities (I)



Italy



Flanders



Portugal

Calibration

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Open/voluntary participation	Participation is not open to all potential local members. Criteria for membership are arbitrary or meant to discriminate. Participation is not voluntary.	Participation is not fully open to all potential local members. Criteria for membership are partly arbitrary or meant to discriminate. Or corresponding legislation is in an early stage of being drafted.	Participation is partly restricted and only partially open/voluntary for all potential members. Or corresponding legislation is in an advanced stage of being drafted.	Participation is largely open/voluntary based on objective, transparent and non-discriminatory criteria.	Participation is fully open/voluntary based on objective, transparent and non-discriminatory criteria.	Participation is fully open/voluntary based on objective, transparent and non-discriminatory criteria. Further regulations/specifications and/or guidance has been developed.
Legal form (difficult to assess)						
Effective control	Effective control by in the proximity has not been considered.	Effective control by has been only very poorly considered in legislation. Or corresponding legislation is in an early stage of being drafted.				
Proximity	Proximity has not been defined in legislation.	Proximity has been only very poorly considered in legislation. Or corresponding legislation is in an early stage of being drafted.	Proximity has been poorly considered in legislation (e.g., technically, geographically). Or corresponding legislation is in an advanced stage of being drafted. Or definition is existing, but in sharp conflict with RED II.	Proximity has been fairly considered in legislation.	Proximity has been considered and further specified in legislation (e.g., technically, geographically).	Proximity has been considered and further specified in legislation (e.g., technically, geographically). Further regulations/specifications and/or guidance has been developed. The definition is fully in line with the RED II.

Enabling framework



Adapted from Krug et al, 2022
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SCALE:



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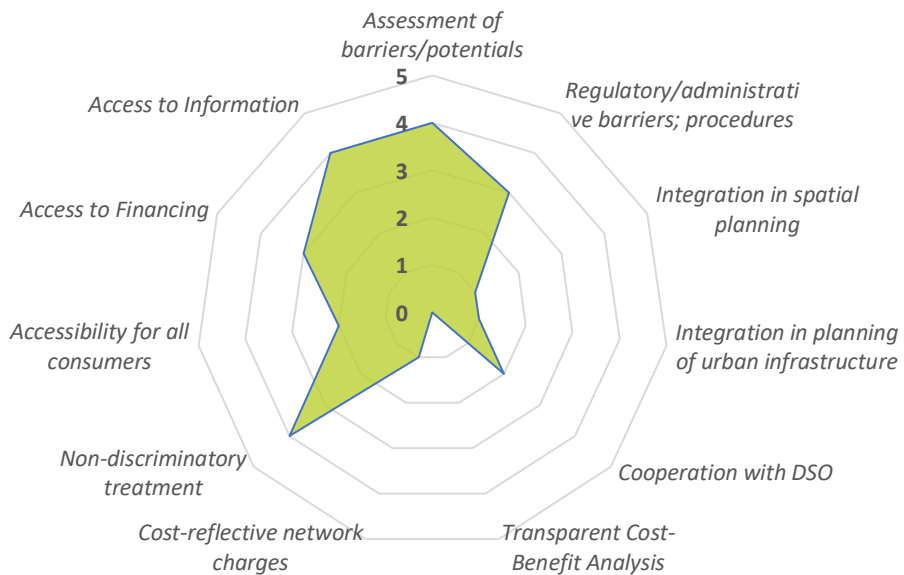
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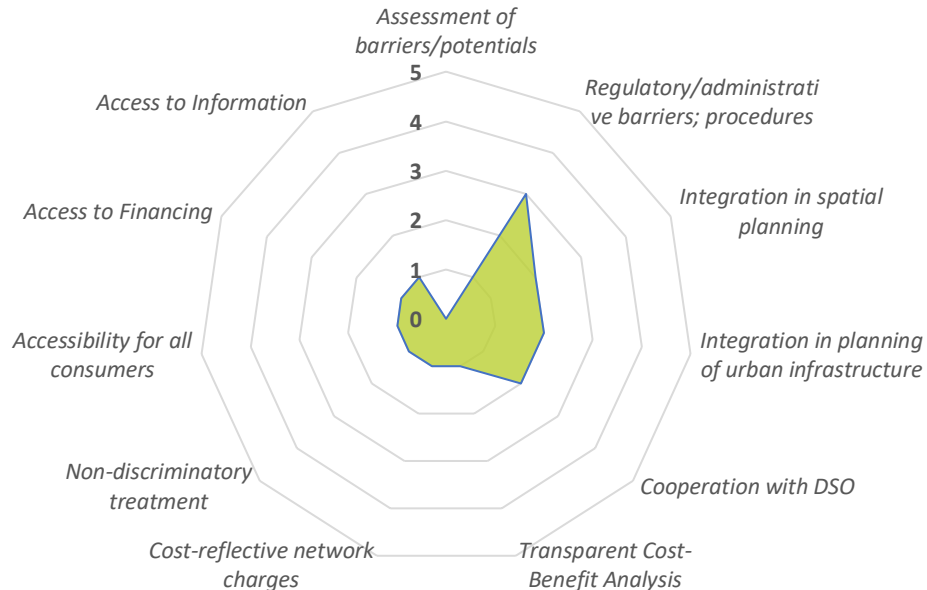
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Enabling framework

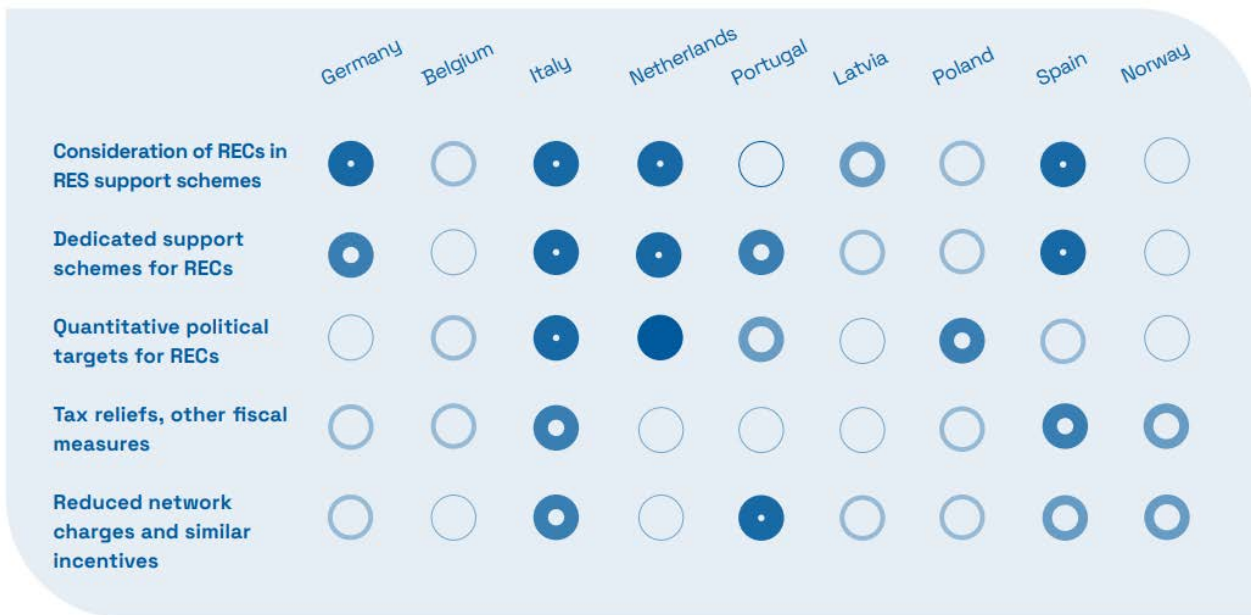


The Netherlands



Poland

Support schemes & incentives

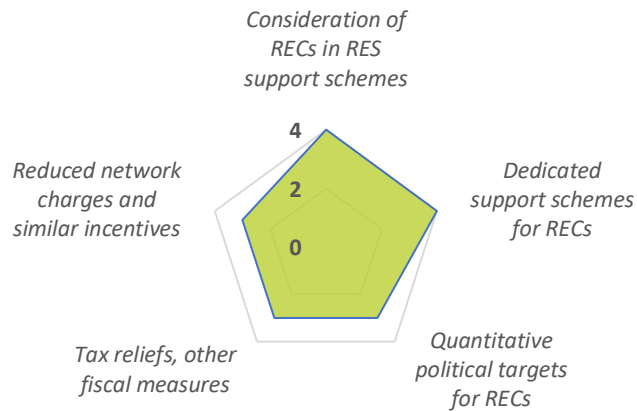


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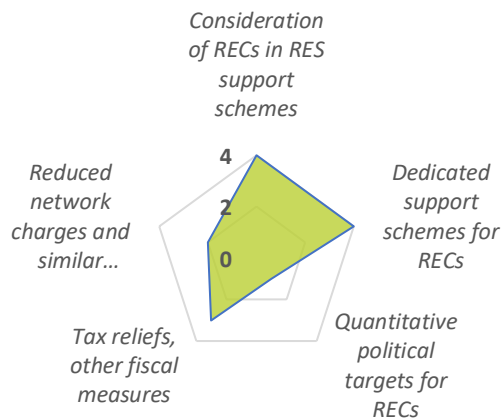
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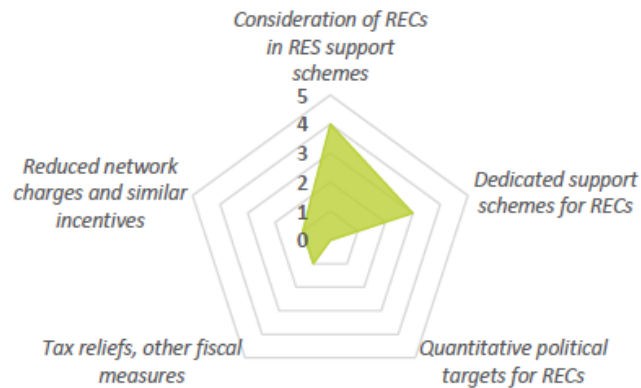
Support schemes & incentives



Italy



Spain



Germany

Conclusions (I)

- Progress of transposition varies considerably in the analysed countries.
- By now, **BE (Flanders)** and **IT** have made the **most progress** in transposing the definitions, rights, and possible market activities of RECs.
- Literal transposition (“copy and paste” approach) of the definitions is not sufficient.
- Most countries made good progress in transposing the definition of RECs, but no country has developed an **enabling framework** that would fully or largely comply with the minimum requirements listed in RED II.
- Enabling frameworks are still **fragmentary**, although progress is being made with different level of commitment and pace.
- **IT, NL, PT** and **DE** are among the more advanced COME RES countries.

Conclusion (II)

- **Removal of existing barriers** is crucial (e.g., lengthy permitting procedures)
- Geographical, technical or other **restrictions** for RECs (e.g., IT, SP, PL)
- Only few countries have provisions to facilitate **cooperation with DSO** (e.g., BE, NL)
- Key role of **Recovery and Resilience Fund** in IT, ES, PL, PT
- **Promising policies:**
 - Quantitative targets: BE (Flanders), NL, PL
 - Dedicated support/Revolving funds: DE, NL
 - Consideration of RECs in RES support scheme design: ES, NL, DE
 - Holistic/integrated support: ES

➡ **From the experimental phase to a new regime. Evolution of RECs governance**
Creation of enabling frameworks is a multi level governance task



Advancing Renewable
Energy Communities

ENABLING RENEWABLE ENERGY COMMUNITIES

Close, but not quite there

The deadlines for transposing the Integrated Electricity Market Directive (IEMD) and the recast Renewable Energy Directive (RED II) into Member State legislation have long passed. In the meantime, tracking the relevant developments is, on the one hand, thrilling, as countries carry out fundamental changes to their energy market designs to accommodate a more citizen-led energy transition. On the other hand, it is also frustrating, because the necessary changes and enabling frameworks continue to develop at very different speeds, with no Member State having achieved the degree of transposition, which would satisfy the European requirements.

Could the deadlines for transposition have been too ambitious considering the political, technical and economic complexities of the national energy markets? Despite all this, Renewable Energy Communities (RECs) continue to develop and citizens, SMEs, public authorities and other energy market actors are waiting (and calling) for the creation of urgently needed enabling frameworks.

As the COME RES Report "Comparative Assessment of enabling frameworks for RECs and Support Scheme Designs" puts it, "The question of whether a country is on the right track cannot be measured by a literal

implementation of the relevant articles of RED II, but rather by a conducive market environment, a successful embedding in the national context and by the establishment of suitable and supporting framework conditions."

This brief, therefore, presents a snapshot of the progress on these elements since February 2021 pertaining to Art. 2 and Art. 22 of the RED II. It provides

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Editor: Lucy Russell, ICLEI Europe

Based on Deliverable 7.1 "Comparative Assessment of Enabling Frameworks for RECs and Support Scheme Designs" of the COME RES project by Michael Krug and Maria-Rosaria Di Nucci, Freie Universität Berlin

Find out more: www.come-res.eu



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Deliverable 7.1

COMPARATIVE ASSESSMENT OF ENABLING FRAMEWORKS FOR RECs AND SUPPORT SCHEME DESIGNS

Date: 31.August 2022

Version: 04



This project has received funding from the European Union's Horizon 2020 research and innovation programme under grant agreement No 953043. The sole responsibility for the content of this document lies with the COME RES project and does not necessarily reflect the opinion of the European Union.

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Thank you for your attention!

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