Energy communities and collective actions: Yearly policy brief on regulation

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Main author(s)	Andreas Tuerk (JR), Camilla Neumann (JR), Malgorzata (Gosia) Matowska (THNK), Lucija Rakocevic (THNK), Daniel Matkovits (PI), Simon Munkler (PI), Ludwig Karg (B.A.U.M), Silvia Assalini (ICLEI)
Contributors	Viktoria Kofler (JR), Anne-Kathrin Vorwald (B.A.U.M)
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MAIN COORDINATOR

Name	Leen Peeters
Organisation	Th!nk E
Address	Philipssite 5 bus 1
E-mail:	leen@think-e.be

CONSORTIUM PARTNERS

No	Organisation	Country	Acronym
1	Th!nk E	Belgium	THNK
2	Joanneum Research	Austria	JR
3	BAUM Consulting	Germany	BAUM
4	Prospex Institute	Belgium	PI
5	Thermovault	Belgium	THERM
6	ENBRO	Belgium	ENBRO
7	Mittetulundusuhing Tartu Regiooni	Estonia	TREA
8	OurPower	Austria	OUR
9	HERON SINGLE MEMBER S.A. ENERGY SERVICES - HERON ENERGY S.A.	Greece	Heron
10	Domx	Greece	DomX
11	Universitaet Mannheim	Germany	UNIMA
12	ICLEI European Secretariat	Germany	ICLEI
13	Elektrizitätswerk Hindelang	Germany	HIND

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1. INTRODUCTION AND OVERVIEW

Some EU Member States have seen strong growth of energy communities since 2022. Austria, for example, reports over 400 registered energy communities and France 180[1]. This dynamic has been caused by regulatory frameworks that became more mature, by subsidies, an increasing number of existing examples and finally by the energy crisis.

This policy brief starts with an overview of the transposition in all EU Member States, then discusses the development in the DECIDE partner countries based on stakeholder interactions and workshops, sheds light on organisational needs and arrangements, and finally draws a number of conclusions on how existing policy frameworks can be improved.

In addition to Renewable and Citizen Energy Communities (RECs and CECs), the Clean Energy Package also regulates jointly acting" renewables self-consumers" (Art 21, paragraph 4, Renewable Energy Directive, RED) which are often typically called collective self-consumption schemes, as well as "active customers as final customers or a group of jointly acting final customers" (Electricity Market Directive, EMD (Art 15)). While the RED suggests multi-apartment blocks for collective self-consumption, it allows EU Member States to also define the scope within other premises. In addition, active customers can store electricity generated within its premises located within confined boundaries or, where permitted by a Member State, within other premises (EMD). In contrary to Energy Communities, the renewables self-consumers or active customers' installations may be owned by a third party or managed by a third party for installation, operation, including metering and maintenance. While most EU countries have implemented regulatory frameworks for RECs, the implementation of frameworks for CECs, collective self-consumption and active customers is lagging behind.

[1] https://www.pv-magazine.com/2023/05/18/france-has-187-energy-communities-in-operation-says-grid-operator/

Table 1: Status quo of full and draft energy community transpositions, May 2023 (Source: JR)

Country	Renewable energy communities	Citizen energy communities
Austria	✓	✓
Belgium: Wallonia	✓	✓
Belgium: Flanders	✓	✓
Belgium: Brussels	✓	✓
Bulgaria	draft	-
Croatia	✓	✓
Cyprus	✓	✓
Czech Republic	-	-
Denmark	✓	✓
Estonia	✓	✓
Finland	✓	✓
France	✓	✓
Germany	draft	-
Greece	✓	✓
Hungary	✓	-
Ireland	draft	draft
Italy	✓	✓
Latvia	✓	✓
Lithuania	✓	-
Luxemburg	✓	-
Malta	✓	-
Netherlands	✓	✓
Portugal	✓	✓
Poland	✓	✓
Romania	-	-
Slovakia	✓	-
Slovenia	✓	✓
Spain	✓	-
Sweden	draft	draft

Table 1 shows that most EU members states already have regulatory frameworks for RECs in place. Recently, Slovakia has also adopted a framework, while Bulgaria is in the transposition process. A range of member states have also implemented the concept of collective self-consumption and only a few recognise the concept

of active customers. Some member states have just transposed the text of the EU directive into national law, without defining details, others have created tailored national framework.

Apart from Spain, France and Portugal, member states have limited collective self-consumption to the multi-apartment level. This may correspond to the philosophy of the RED that emphasizes the local level, but often may not enable or encourage the building of sound business cases. Similar load profiles within such narrow boundaries do not achieve adequate degrees of self-sufficiency. On the other hand limiting collective self-consumption to the building level avoids the use of the public grid, and seems easier to policymaker to implement.

With regard to active customers, many member states have no clear vision and have barely begun to implement the concept. The few countries that have transposed the concept limit them to multi-apartment level. Flanders in Belgium has merged the concept with collective self-consumption, as also Austria plans to do so. The concepts of collective self-consumption and active customers would be easier to implement in practice since the formal creation of an energy community is not needed and third party operation is permitted. It would be better to allow business to engage in collective actions and thereby reduce administrative costs. For both, collective self-consumption and active consumers however there are no governance criteria, which could open the door for initiatives without citizen involvement. Instead of operationalizing the concepts of collective self-consumption and active consumers more systematically, some member states include certain elements such as third party ownership into their energy community definitions, such as Austria or Brussels in Belgium. Other countries rollout the concept of collective self-consumption while stipulating spatial limits at district level, such as Spain, while neglecting the roll out of RECs and CECs. The differences in national legislation in how collective energy actions are defined has made it extremely difficult to map out or list existing collective energy actions in a systematic way.

2. INSIGHTS FROM DECIDE PARTNER COUNTRIES

This chapter provides a description of the regulatory frameworks in the DECIDE countries as well as existing barriers to energy community rollout.

As part of its efforts to support 'creating framework conditions' (WP3), DECIDE organized a series of workshops across all its pilot countries, namely Austria, Belgium, Estonia, Germany, and Greece. The purpose of these workshops was to identify barriers that policymakers could address to promote energy communities (ECs) and collective energy actions (CEAs). The workshops focused on the specific characteristics of each country, and local stakeholders were invited to jointly discuss the factors preventing them from establishing or expanding their initiatives. The following country profiles provide the outcomes of these discussions.

2.1 COUNTRY PROFILES

Austria

In July 2021, a legislative package on the expansion of renewable energy was adopted (Renewables Expansion Law/Erneuerbaren-Ausbau-Gesetz, EAG) (Stiftung Umweltenergierecht, 2022). The legislative package establishes a framework for RECs, while also provisions on CECs are introduced. In the context of RECs „local energy communities" and "regional energy communities" are defined. Local energy communities are related to the low voltage (LV) level of the electricity grid and regional energy communities to the medium voltage (MV) level of the grid. The organisational form is open, it can be for example an association or cooperative. The right of consumers to choose a supplier (for the residual demand of electricity) cannot be withdrawn by energy communities. Austria has introduced reduced grid fees for electricity exchange within energy communities. In order to set the level of reduction the following principle is followed: fees for using electricity grid with voltage levels that are superordinate to the electricity grid voltage level in which the REC is located are deducted for electricity exchanged within the RECs. In addition, the volumetric tariff elements for surcharges are deducted from the electricity grid tariff. That sums up to a grid fee reduction of 57% for the LV level, for MV energy communities it is 28% (Tuerk et al, 2022).

Stakeholders pointed out how **unclear definitions** within the existing legislation have negatively have had a negative impact on network operators as well as practitioners across the country. **Spatial proximity and non-uniform pricing** were identified as priorities for the regulator to address and better define. Furthermore, the lack of multiple options available for **sharing coefficient**s and **allocation/distribution keys** was also discussed

as a barrier to growth, with participants stating that having few alternatives does not benefit the heterogeneous Austrian energy communities.

In relation to **network structure and access**, attendees mentioned that the *rules of the game* need to be clearer and made available to all parties involved in order to level the playing field. Unequal participation in the market was discussed as an issue and barrier for smaller organisations. In particular, **the role of larger companies** needs to be addressed. Austria allows third party ownership of the assets of renewable energy communities and increasingly established market actors are rolling out energy communities often with the help of daughter companies. This has accelerated the establishment of energy communities in Austria and enabled energy communities to easier access flexibility markets, sometimes in urban areas where there is a lack of bottom-up initiatives. Big banks however have a preference for financing projects initiated by established actors, while smaller bottom-up initiatives often struggle to secure funding.

Finally, other obstacles hindering the development of energy communities were identified. Namely, the **information lag** and/or gap between municipalities, **data transmission**, the current **exclusion of heat and gas**, how **tariffs** are currently set, and the lack of **long-term power purchasing contracts** and other forms of financial support.

Belgium

The implementation status of EU Directives related to Energy Communities varies between the three regions in Belgium: Brussels Capital Region, Flanders and Wallonia, since they have different legal transpositions. In April 2021, the Flemish government adopted a decree transposing EU Directives related to Energy Communities.

In Belgium, two workshops focused regionally on Flanders and explored the needs and specificities of two different local stakeholder groups: social housing and municipalities.

In the DECIDE stakeholder workshops it emerged that issues relating to the use of **energy data** appear to be a major obstacle to the development of collective energy actions. Stakeholders from housing associations raised concerns about **tenants' privacy and data security.** These issues can prevent companies from developing and implementing viable business models around the ownership of produced energy and the efficient use of the data generated, at both system and individual levels. Participants agreed that in order to be successfully implemented, energy communities need to work within the ethical and regulatory parameters set for social housing associations.

Energy sharing among housing associations was also addressed. Firstly, the challenges of practical **implementation** were discussed and participants raised concerns around how energy can be distributed fairly, who should benefit, and what the price of shared energy should be. Secondly, barriers linked to **social acceptance** were listed. Energy sharing, as well as demand-response, may indeed be hindered by language barriers, the digital divide, scepticism towards savings, distrust of complex billing, and climate dis-engagement.

Barriers to energy sharing were also discussed within the context of Flemish municipalities. How to deal with **multiple energy providers** raised concerns as these companies may not all be willing to collaborate, and some may impose higher costs making energy sharing less financially attractive if not impracticable. Furthermore, the distribution of surplus energy remains unclear and issues related to its governance and control were highlighted.

Finally, stakeholders addressed additional challenges such as a possible **conflict of interest** between DSO, Fluvius, and the TSO, Elia; **transparency on price settings** by the government institution VEB (Flemish Energy Company), levels of awareness within rural and smaller municipalities, and **communication**. The two last points were linked together in the discussion since municipalities currently receive multiple offers from the private sector but do not always understand what is being proposed or what the consequences may be, both in the short and long term.

Estonia

In May 2022, the Estonian government adopted an Electricity Market Act, which promotes the creation of energy communities, obliges network operators to purchase flexibility services from the market and regulates the ownership relations of distribution network operators and electric car sharing infrastructure.

The role of public institutions was discussed at length in workshops in Estonia. When debating local authorities' possible participation or contribution to ECs, the **Estonian Public Procurement Act** was identified as a major barrier as it does not allow – owing to principles of fair competition – municipalities to prioritise locally produced energy in public procurement.

Network capacity issues were also addressed. At network level, investments are needed as the existing infrastructure is unable to adequately address emerging needs e.g., self-consumption, as well as greater and broader participation in the energy market.

At project level, while the lack of **land** can sometimes prevent the establishment of new ECs, the lack of **know-how** and **technical expertise** were highlighted as the main obstacles to operational efficiency. Finally, **a cooperation with the DSO** also needs to be addressed in order to promote ECs and allow energy sharing within a certain radius/area. This could be defined in different ways e.g., KMs, sub-station etc. The current **direct cable** alternative was discussed as neither a financially viable nor environmentally responsible way to address rising local demand. Regarding the grid fees, there is a uniform grid fee **all over Estonia** (the grid price is the same in small islands and in Tallinn or Tartu). I would be needed to discover **benefits of energy communities for the DSO** mutually with the ministry and the DSO and a a result grant some discounts (eg as some investment in the grid is not needed because of energy communities)

Germany

Germany has not fully transposed the EU provisions for energy communities into national law. (Amtsblatt der Europäischen Union, L 328/82, 2018)[2] (Amtsblatt der Europäischen Union, L 158/125, 2019)[3] However, there is a long history of citizen-financed projects that are regarded as energy communities in a wider sense. In particular, cooperatives have a long tradition in Germany. Nationwide there are close to 1,000 cooperatives for renewable energy generation. These often wish to use the electricity generated themselves. Implementing the EU directives on energy communities could give these cooperatives an opportunity to implement such self-consumption.

According to the Cooperatives Act (GenG), cooperatives are defined as an association of persons "whose purpose is to promote the acquisition or the economy of their members or their social or cultural interests through joint business operations". Most energy cooperatives were founded in the last 10 years and have proven their worth in the first area of the German Energiewende “Energy Transition 1.0” as a form of enterprise that brings citizens, energy suppliers and municipalities closer together to jointly finance and implement renewable energy projects. The cooperative form of organisation with its characteristic principles of self-help, individual responsibility, "one person, one vote" is also suitable for advancing the Energiewende 2.0, possibly in the form of Renewable or Citizen Energy Communities.

[2] Art. 22
[3] Art. 16

Energy supply in Germany is quite diverse and rather complex. Among other things, the role of the approximately 1,000, mostly municipal, public utilities and regional suppliers must be taken into account [4]. There are quite a number of issues to consider when implementing the EU directives on Renewable and Citizen Energy Communities. This is one reason why they have so far not been (fully) transposed into German national law. For example, there should be a prosperous cooperation between the new players in the energy system and the municipal utilities that have been operating sustainably in their region for a long time. Further fragmentation or even competitive situations on the energy market could hinder the urgently needed energy transition.

In Germany, the Erneuerbare Energien Gesetz (EEG, Renewable Energy Sources Act) is decisive for the construction and operation of renewable energy facilities. As part of the so-called Easter Package, the Federal Government had presented an amendment proposal for the EEG in April 2022. The amendment has passed the legislation process and has partly been put into force as of August 1st, 2022. The remaining aspects of the new act will come into force in 2023.

§ 21 of the Renewable Energy Sources Act (EEG) offers the option of tenant electricity supply, which, according to the amendment, should also be possible if the participants are not in the same building, but within a shared neighbourhood. However, it has not yet been defined with legal certainty what is meant by a neighbourhood. In any case, it is not possible to use the public grid in such a construction. In this respect, the possibilities for communities are limited to a single grid connection point. What is new in the EEG 2023 is that for such a "behind-the-meter" supply, there are no longer any apportionments on self-generated and self-consumed electricity or electricity supplied to third parties behind the grid connection point (Bundesregierung, 2022).

The EEG of 2021 had already introduced the term "Bürgerenergiegesellschaft" (BEG, literally translated "citizen energy enterprise"). In the EEG amendment 2023, this definition is modified, whereby the role of natural persons is strengthened. According to EEG 2023, a BEG must now consist of at least 50 natural persons (EEG 2021: 10), who hold at least 75% of the voting rights (EEG 2021: 51%) and who must possess the "possibility to influence the company and to participate in the decisions made at shareholder meetings". The group of possible legal entities is restricted and limited to SMEs and local authorities (Stiftung Umweltenergierecht, 2022).

[4] https://www.marktstammdatenregister.de/MaStR/Akteur/Marktakteur/IndexOeffentlich

In this way, central elements of the Renewable Energy Communities and Citizen Energy Communities described in the EU directives are implemented and combined under a single term. BEGs are limited to renewable energies, but there is no "proximity requirement". However, the supply of electricity is reserved for companies that are Energieversorgungsunternehmen (EVU, literally translated “energy supply companies”)[5]. In this respect, the EEG 2023 amendment still largely lacks the possibilities of energy sharing inside a BEG in the sense of the EU directives. However, starting in early 2023, the responsible Federal Ministry for Economic Affairs and Climate Protection (BMWK) has started a process to clarify the definition, appropriate implementation and remuneration and, if necessary, suitable legislation and regulation.

Projects carried out by a BEG can be realised (with restrictions) without having to participate in a prior tendering process. In addition, there will be subsidies for BEGs in the planning and approval phase for onshore wind turbines.

According to the 2023 amendment of the EEG, existing or new cooperatives that are also energy supply companies (EVUs) within the meaning of the German Energy Industry Act, will be counted as BEGs (citizens' energy companies), provided they meet the criteria according to EEG. They can themselves or through participation in "subsidiary companies" receive relief in tenders for the construction of PV or wind energy facilities and can in principle offer their owners or members special tariffs in the sense of energy sharing. This offers new options, especially for small municipal utilities organised as limited liability companies (GmbH) or cooperative energy suppliers.

Greece

In 2018, a law on energy communities (law N4513/2018) was introduced, which expanded the scope of virtual net metering to energy communities. The law defines energy communities as urban partnerships with the aim of social and solidarity economy, and innovation in the energy sector. An energy community is to be organised as a cooperative that can produce, distribute, and supply are "natural or legal persons who supply energy to others, operate an energy supply network or have power of disposal over an energy supply network as the owner; the operation of a customer installation or a customer installation for the operational supply of

[5] Energieversorgungsunternehmen (EVU, energy supply companies) are "natural or legal persons who supply energy to others, operate an energy supply network or have power of disposal over an energy supply network as the owner; the operation of a customer installation or a customer installation for the operational supply of electricity does not make the operator an energy supply company.” Energy supply companies are part of the basic supply and are obliged to supply according to the Energy Industry Act (EnWG).

electricity does not make the operator an energy supply company." Additional activities may include natural gas heating/cooling, demand-side management, aggregation of producers/consumers, and network development. Regarding proximity of effective control, the law states that 51% of the energy community members must have local ties with the district in which the energy community has its headquarters. In case of individuals these local ties shall be demonstrated by a) ownership rights or b) by the right to use (usufruct) immovable property within the district of the energy community, or c) by being officially registered as residents in the concerned municipality. For legal entities, the local relation to the energy community requires the headquarters to be within the district in which the energy community has its headquarters (Douvitsa, 2018).
In Greece, DECIDE´s latest engagement activity focused on the role collective energy actions can play in addressing carbon neutrality and energy poverty at local level.

In this context, local institutions were found to have limited **know-how** and **overall expertise**, and lack of **staff** capable of dealing with these issues. For both municipalities and citizens, stakeholders also highlighted the inadequate **understanding of the cost of energy** and its implications. **Local budget** was also debated. In recent years, municipalities have been given more responsibilities by the central government in Greece, but with no consequential budget allocation. This shortage of funds impacts energy related budgets which, with regard to publicly owned buildings, were found difficult to assess due to the absence of **monitoring systems and processes**.

With regard to urban areas, a **lack of space** for installations e.g., PVs, was raised as another issue hindering new RES projects involving citizens and residents. On this note, a lot of the discussion focused on the current maximum **RES production cap** i.e., 92 GW, which is already perceived as an obstacle and stakeholders agreed it should soon be reassessed to enable more initiatives. Finally, where collective energy actions are developed bottom-up, navigating the **regulatory framework** and relevant **bureaucratic procedures** was highlighted as a major barrier demanding excessive time, expertise and/or financial resources.

2.2 RECURRENT ISSUES AND RECOMMENDATIONS FOR DECIDE PILOT COUNTRIES

Table 2: Recurrent issues in DECIDE Pilot Countries

Type of barrier	Austria	Belgium	Estonia	Germany	Greece
Unclear definitions	x				
Fair and transparent access to information	x	x		x	x
Role of large companies	x				
Data accessibility	x	x			
Understanding of price/tariff setting	x	x			x
Lack of financial support/ incentives			x	x	x
Energy sharing - practical implementation		x	x		
Social acceptance		x		x	
Collaborativeness of energy providers		x	x		
Grid capacity			x		x
Contract with other existing laws (fair competition law, federal laws,...)			x	x	
Know how			x		x
Market fragmentation				x	
Monitoring system missing					x
Lack of space			x		x

The table above (Table 2) demonstrates the recurrent issues experienced in the DECIDE Pilot Countries. Recommendations for the individual countries are listed below:

Austria

- Provide multiple sharing coefficient options
- Enable network operators to buy flexibility
- Make investment in public infrastructure
- Establish the possibility of creating supply-oriented or self-optimization tariff structures and/or network operators to buy flexibility

Belgium

- Municipalities should collectively enable energy sharing by contacting together different energy providers.
- Need for a comprehensible communication strategy of the benefits of data sharing for the social housing tenants was mentioned.

Estonia

- Develop a Network Strengthening Programme in collaboration with a wide range of stakeholders to make sure all relevant needs are mapped and addressed
- Investigate virtual energy sharing
- Make state-owned land available to ECs, either free of charge or for a small fee
- Allow ECs, for a small fee, to use the current distribution system. In this way, communities will not need to establish physical cables when producing and/or consuming their energy locally

Germany

- Various support measures needed at the municipal level, which can best be provided by an umbrella organisation founded or at least supported by the municipalities
- Know-how transfer and coaching for the establishment of a "Bürgerenergiegesellschaft" (BEG, citizen energy enterprises)
- Participation of the municipalities in the BEG in order to gain political backing and to not lose sight of the concept of services of general interest, ensuring economic viability, especially in the start-up phase

Greece

- Municipalities have to begin recruiting dedicated resources i.e., specific energy transition skills, training and reskilling existing employees in order to build internal capacity
- Develop education campaigns to improve understanding of the cost of energy - sharing success stories and citizen science were discussed as potential methodologies in order to help identify what can be done and which potential solutions are available.

3. OVERALL RECOMMENDATIONS AND CONCLUSIONS

As illustrated in this policy brief the way Member States are implementing the Clean Energy Package provisions is very heterogeneous and often limiting. Most Member States do not consider initiatives motivated by financial gains for members, or controlled by third parties next to energy communities that are built on social targets.

This limits the scope of energy initiatives supported by enabling frameworks or recognized as community or collective initiatives. In order to provide guidance for collective energy actions that are broader than REC and CECs, that deliver economic and environmental benefits without excluding the potential for making a financial profit, DECIDE proposes that collective energy actions are effectively controlled by shareholders or members or by a third party (e.g., SME, energy supplier, municipality, etc.). Where the collective action is controlled by a private undertaking whose primary commercial or professional activity is in the energy sector, the coordination of the collective action must include a decision-making majority of representatives from a public body, citizens, and/or civil society.

Another key recommendation of DECIDE is the need for umbrella structures and organisations. Umbrella structures are needed to maintain the efficiency of the energy system. In some countries, such as Austria or France, a large number of small renewable energy communities are emerging, causing a fragmentation of the energy system. Umbrella structures for RECs could be CECs, in which they could be embedded, or municipal utilities. Also umbrella organisation will be of high importance, such as associations, national bodies or authorities that track collective energy actions and/or provide systemic support for such initiatives. Such organisations could, for example, help by providing:

- mainstreamed procedures for forming collective energy actions
- guides to legislation and support schemes
- templates for legal documents (such as statutes of organisation, contracts for members or customers, contracts for employees etc.)[6]
    - Best practice example: Local Energy Scotland website with templates for collective and community initiatives.
    - Best practice example: Austrian coordination office for energy communities, providing templates, an economic calculator and examples
- Trainings for employees of collective energy actions on energy topics and procedures for implementation of projects

[6] Templates should take into account the checklist provided for statutes, contracts with members and contracts with employees defined under Deliverable D3.3 (Tuerk et al, 2023).

- Support for raising financing
- Guides on how to design lasting collective energy actions

Legal frameworks must allow for and support the establishment of umbrella organisations and structures. While legislative and regulatory frameworks should be flexible to allow for various types of collective energy actions, they could provide guidelines to direct initiatives toward more lasting forms.

For example, the guidelines provided could relate to the following key topics[7]:

- Ensuring the initiative is operated and organized by more than 1 key personnel – Regulation could ensure that more than 1 key personnel is needed to found an initiative
- Ensuring initiative key personnel are diverse and representative of the target community (diverse in a sense of gender, age or socio-economic background)
- Allowing for an annual update of the statute based on member and employee feedback, as well as on justified business and social model changes
- Ensuring the initiative is not 100% supported by or reliant upon public funding. While this can be the case at the beginning, there should be a timeframe after which the initiative should gradually transform into a more sustainable business model for the long term
- Requesting initiatives to have more than 1 key activity thereby ensuring their resilience
- Requesting engagement in at least one umbrella organisation to ensure knowledge transfer to other potential and new initiatives

Types of support for collective energy actions can be further specified based on regional or local societal needs and priorities within the context of the energy transition. However, regulation should not forbid or inhibit the creation of a variety of collective energy action types ensuring the flexibility needed for active inclusion of various stakeholders. The EU directives must be geared to strengthening individual citizens and cooperative action in the energy market. Sometimes, there are fears that are voiced that large companies and investors will establish (many) pro forma cooperatives in order to meet requirements for energy communities and thus control the market. This would not be in keeping with the spirit of the EC directives, however, especially if such organisations were to enjoy more rights and a higher standing than, for example, municipal utilities which are not typically considered energy communities under the EU directives. In any case, the legal and regulatory framework should also recognise and support energy communities that are not centred only around self-supply but involved in other energy actions such as improving energy efficiency, managing energy exchanges via blockchains or optimising the use of charging infrastructure.

[7] Chosen from the checklist of topics which should be covered by legal statutes provided in Deliverable D 3.3 (Tuerk et al, 2023).

DECIDE concludes that collective energy actions are complementary to energy communities as additional avenues for achieving a broad energy transformation. Member States should receive additional guidance on how to operationalise these concepts and how to enable business to scale initiatives while preserving the core ideas of the Clean Energy package involving civil society. Operationalizing current concepts such as active customers could be the starting point but for a broad transition, a variety of approaches will be needed.

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PARTNERS

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