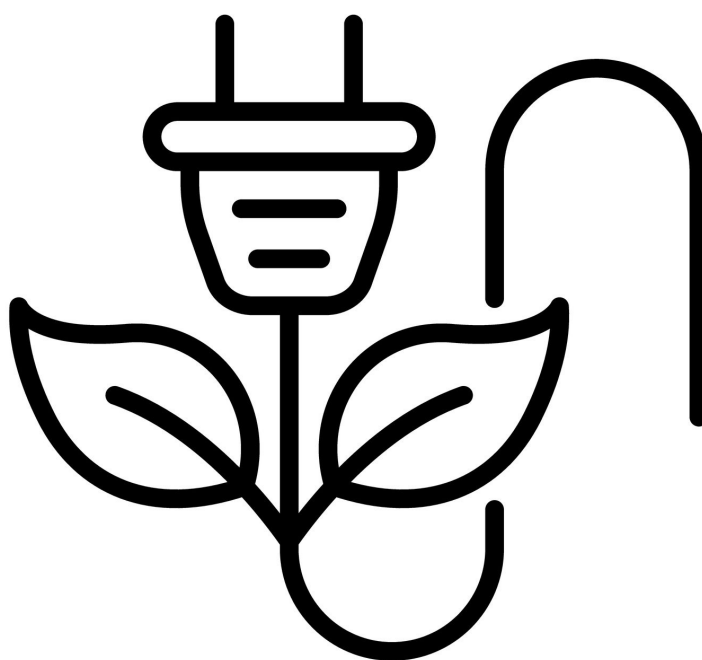


The Green Transition Puzzle: Energy Communities as a Missing Piece

2023 ELI Young Lawyers Award Winning Paper Summary





ELI

EUROPEAN
LAW
INSTITUTE

The Green Transition Puzzle: Energy Communities as a Missing Piece

2023 ELI Young Lawyers Award Winning Paper Summary

By Yulia Sergeeva

Cover photo: Shutterstock

Summary

The European Union (EU) and its citizens are now in the midst of an unprecedented energy crisis, with energy independence and the accelerated green transition being the central tasks of EU energy policy. To tackle them, we have to spotlight a commonly overlooked concept of energy communities. An energy community can be understood as a legal entity of a specific kind, most commonly a cooperative, which is established by residents for the operation of a renewable energy project – for instance, the installation of solar panels, with a view to sharing the electricity produced. Such collective initiatives have great potential by promoting the decentralised production of energy that is both clean and affordable. However, to properly support the development of energy communities in Member States, the EU has to provide a more detailed regulatory framework.

To begin with, there are several particular benefits that energy communities are likely to bring. First, research has demonstrated that the collective ownership of energy is likely to lead to the uptake of clean energy technologies by increasing public acceptance of renewable sources. Second, energy communities – a concept underpinned by the idea of energy democracy – could significantly reduce energy poverty throughout the EU, becoming an important tool for a just energy transition. Third, collective energy initiatives are likely to nudge people towards sustainable living even beyond the domain of energy, also facilitating strong public and social engagement in climate action.

To unlock the demonstrated potential, however, national legislators need clearer guidance in the form of elaborate rules from the EU. While the concept of energy communities has recently been introduced into EU legislation in the Renewable Energy Directive (RED) and the Internal Electricity Market Directive (IEMD), the existing rules are not adequate to enable the effective uptake of energy communities. The most common concern is that Member States lack appropriate expertise because of the novelty of the legal concept. Additionally, a wide margin of appreciation in the existing Directives leads to diverging national measures being adopted, which brings further complications. Finally, not all Member States are equally committed to the idea of green transition as such and the development of energy communities in particular, so more stringent rules are needed from the EU.

Thus, the EU has to take a strong lead in the development of European energy communities and provide a significantly more elaborate legal framework in the very near future. To offer potential solutions, such a framework could materialise as either an actual Regulation or at least detailed guidelines on the implementation of the rules in the existing Directives. The green energy transition is no longer a question of initiative but of necessity – while collective, citizen-driven energy actions are part of the answer.

The full paper can be read in the International Institute for the Unification of Private Law's (UNIDROIT) Uniform Law Review.



The Author

Yulia Sergeeva is a third-year LLB student at the University of Groningen, the Netherlands, and a junior legal adviser at Ocean Grazer BV.

In her paper, she draws attention to the concept of energy communities and suggests that the current legal framework governing the EU energy sector is inadequate for the realisation of their true potential.

The European Law Institute (ELI) is an independent non-profit organisation established to initiate, conduct and facilitate research, make recommendations and provide practical guidance in the field of European legal development. Building on the wealth of diverse legal traditions, its mission is the quest for better law-making in Europe and the enhancement of European legal integration. By its endeavours, ELI seeks to contribute to the formation of a more vigorous European legal community, integrating the achievements of the various legal cultures, endorsing the value of comparative knowledge, and taking a genuinely pan-European perspective. As such, its work covers all branches of the law: substantive and procedural; private and public.



ELI

EUROPEAN
LAW
INSTITUTE