



WinWind has received funding from European Union's Horizon 2020 Research and Innovation programme under Grant Agreement N° 764717

# Policy Brief 1: The Clean Energy Package and its implications for Renewable Energy Communities



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*May 2018*



# The Clean Energy Package and its implications for Renewable Energy Communities

On 30 November 2016, the European Commission launched the Clean Energy Package, a comprehensive set of legislative proposals. The package includes a recast of the Directive on the Promotion of Renewable Energy Sources (European Commission 2016a). The current Renewable Energy Directive (2009/28/EC) is designed to meet the EU's 2020 targets and needs to be revised to meet the EU target of at least 27% renewable energy in final energy consumption by 2030. The latter was endorsed by the European Council which specified that the 27% target should be binding on the EU as a whole but should be achieved without setting legally binding national targets, in order to provide more flexibility for Member States.

The Commission proposal for a revised Renewable Energy Directive contains a binding target of a 27% EU share of RES in final energy consumption by 2030. The proposed directive provides guiding principles on financial support schemes for RES, enhances mechanisms for cross-border cooperation, simplifies administrative procedures, and outlines measures to mainstream the use of RES in the transport and heating and cooling sector. The proposal also contains detailed provisions to improve the sustainability and greenhouse gas (GHG) emissions-saving criteria for biofuels, bioliquids and biomass.

Furthermore, the proposed directive addresses renewable energy communities (REC), particularly in Article 22, which includes definitions, criteria and guidance for their realization. This is a novel approach as REC including community participation in wind energy projects have not been mentioned by the actual Renewable Energy Directive. With the Clean Energy Package, the Commission acknowledges that the specific characteristics of REC in terms of size, ownership structure and number of projects can hamper their competition on equal footing with large-scale players. Measures to offset those disadvantages include enabling renewable energy communities to operate in the energy system and easing their market integration.

Article 22 of the proposed Recast Directive sets forth new provisions on REC to empower them to participate in the market. It defines REC as entities through which citizens and/or local authorities own or participate in the production and/or use of renewable energy. A REC shall be an SME or a not-for-profit organization of which the shareholders or members cooperate in the generation, distribution, storage or supply of energy from RES, fulfilling at least four of the following five criteria:

- a) shareholders or members are natural persons, local authorities, including municipalities, or SMEs operating in the fields of renewable energy;
- b) at least 51% of the shareholders or members with voting rights of the entity are natural persons;
- c) at least 51% of the shares or participation rights of the entity are owned by local members, i.e. representatives of local public and local private socio-economic interests or citizens having a direct interest in the community activity and its impacts;

- d) at least 51% of the seats in the board of directors or managing bodies of the entity are reserved to local members, i.e. representatives of local public and local private socioeconomic interests or citizens having a direct interest in the community activity and its impacts;
- e) the community has not installed more than 18 MW of renewable capacity for electricity, heating and cooling and transport as a yearly average in the previous five years.

The proposal also stipulates that Member States shall take into account the specificities of REC when designing support schemes. In its Impact Assessment of the Recast Directive (European Commission 2016b), the Commission acknowledged that with more than 2,500 initiatives EU-wide, REC have been key in triggering the energy transition in Europe. The local anchorage and ownership of such initiatives have brought substantial benefits in terms of social acceptance for renewable energy projects, especially for wind energy. They have contributed not only to increasing renewable shares and to reaching the targets, but also to lowering the cost of renewable energy deployment by making available the most adequate sites and providing access to cheap capital.

However, the Commission proposal does not contain any further provisions regarding an enabling framework supporting REC and, in this respect, lags behind the position of the European Parliament (see below).

The Recast Directive would enter into force on 1 January 2021, when the existing Renewable Energy Directive would be repealed. The proposed transposition date for Member States is 30 June 2021.

## Positions of the Council of Ministers and the European Parliament

On 18 December 2017, the Council adopted the General Approach on the proposed Recast Directive. The Council supported the Commission's proposal for an overall 27% binding target by 2030, to be achieved without additional binding national targets. In its General Approach, the Council also proposed clearer rights and obligations for REC. The General Approach envisages that Member States will provide an "enabling regulatory framework" for REC. However, the respective provisions lag behind the corresponding proposals by the European Parliament.

The Parliament adopted its plenary position on 17 January 2018, together with a mandate to start inter-institutional trilogue<sup>1</sup> negotiations with the Council and the Commission. The plenary

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<sup>1</sup> Trilogues are informal meetings on legislative proposals between representatives of the Parliament, the Council and the Commission. Their purpose is to reach a provisional agreement on a text acceptable to both the Council and the Parliament. Trilogue negotiations involve, on the Parliament side, a negotiating team consisting of the Chair or a Vice-Chair of the responsible committee, the rapporteur and at least the shadow rapporteurs from each political group that wishes to participate and, on the Council side, representatives of the Presidency of the Council of Ministers. The Commission acts as a mediator with a view to facilitating an agreement between the co-legislators. The three delegations explore possible avenues of compromise in an informal manner and report back according to their respective institutions' internal rules (cf. in more detail <http://www.europarl.europa.eu/ordinary-legislative->

position supports a binding EU target of a 35% RES share in final energy consumption by 2030, including a 12% RES share in transport for each Member State. Member States would be required to carry out an assessment of the existing barriers and potential of development of REC in their territories in order to put in place an enabling framework to promote and facilitate their participation in the generation, consumption, storage and sale of renewable energy.

The proposed enabling framework shall include:

- a) objectives and specific measures to help public authorities enable the development of renewable energy communities, and to participate directly;
- b) specific measures to ensure that participation in renewable energy communities is accessible to all consumers, including those in low-income or vulnerable households or in social housing or who are tenants;
- c) tools to facilitate access to finance and information;
- d) regulatory and capacity-building support to public authorities in setting up renewable energy communities;
- e) the removal of unjustified regulatory and administrative barriers to renewable energy communities;
- f) rules to secure the equal and non-discriminatory treatment of consumers that participate in the energy community, ensuring consumer protection equivalent to that of those connected to the distribution grids.

The enabling framework shall be part of the integrated national energy and climate plans.

## Interinstitutional trilogue and actual compromise proposals by the Council Presidency

The first two trilogue meetings took place on 27 February and 27 March 2018. The third meeting is scheduled for 17 May 2018 and a fourth, potentially last one on 29 May 2018. For the third trilogue the Council Presidency invited COREPER<sup>2</sup> to agree on a revised mandate for the Presidency. For this purpose, the Presidency on 4 May 2018 proposed a number of compromises including on Article 22 on REC. The Council Presidency invited COREPER to provide guidance on remaining key political issues including for outstanding and “highly political and very sensitive issues” (e.g. the overall EU target level). Taking into account recent scientific evidence<sup>3</sup> on the one hand, and the broad support for an EU level RES target of 30%

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[procedure/en/interinstitutional-negotiations.html](https://eurlex.europa.eu/procedure/en/interinstitutional-negotiations.html)). This task will be coordinated by two European Presidencies: Bulgaria, the acting Presidency since January 2018 and Austria from July to December 2018.

<sup>2</sup> The Permanent Representatives Committee (COREPER) is responsible for preparing the work of the Council of the European Union. It consists of representatives from the EU countries with the rank of ambassador to the EU and is chaired by the EU country which holds the Council Presidency (cf. in more detail <https://eurlex.europa.eu/summary/glossary/coreper.html?locale=en>)

<sup>3</sup> In order to pave the way for the trilogue discussion and taking into account substantial cost reductions of some renewable technologies including on- and off-shore wind or solar PV, the Commission has updated its economic

expressed in the discussions at the informal meeting of Energy Ministers in Sofia in April 2018 on the other hand, the Council Presidency presently explores the room for a compromise with the European Parliament including an overall EU target slightly above 30%.

Table 1 includes a comparison of selected items of the Commission proposal with positions of the European Parliament, the Council and current legislation.

**Table 1: Comparing selected items of the Commission proposal for a revised Renewable Energy Directive with positions of the Parliament, the Council and current legislation**

	European Commission	European Parliament	Council of the European Union	Council Presidency	Current legislation
	Proposal for RES Directive (recast) COM/2016/0767 final - 2016/0382 (COD)	Plenary Position (adopted 17/01/2018)	General Approach (adopted 18/12/2017)	Compromise proposals dated 04/05/2018 (cf. Council of the European Union 2018)	RES Directive (2009/28/EC)
EU binding overall target for 2030 (RES share in gross final energy consumption)	27%	35%	27%	27% (further discussions necessary)	20% (2020)
Binding national targets for 2030 (RES share in gross final energy consumption)	–	–	–	–	X (2020)
Definition of renewable energy communities (REC)	X (Art. 22)	X (Art. 2, Art.22)	X (Art. 2)	(Maintain Council General Approach)	–

modelling underpinning its proposal. The analysis concludes that lower costs enable the EU to reach a 30% target at a similar cost to the one anticipated for the 27% target few years ago. Beyond a 30% RE share, the costs moderately increase, but with clear net benefits in terms of reducing GHG emissions and fossil fuels imports, increasing security of supply and having a positive impact on GDP growth and new jobs. Another recent study published by the International Renewable Energy Agency (IRENA) concluded that the EU can increase the share of renewable energy in its energy mix to 34% by 2030 – double the share in 2015 – with a net positive economic impact (IRENA 2018). This analysis is based on the significant cost reductions of the aforementioned renewable energy technologies but also considering the accelerated technological development in end-use sectors.

Criteria for REC	X (4 out of 5 criteria to be fulfilled)	X (1 minimum criterion, in addition 3 out of 4 criteria to be fulfilled)	(x)	Partly to be discussed with Parliament	–
Principles, rights and duties of REC	(x)	x	x	Partly to be discussed with Parliament	–
Member States to assess potential and barriers for REC	-	x		Accept in part	–
Member States to develop enabling framework for REC	–	x	(x)	Accept in part	–
Member States to take into account specificities of REC when designing support schemes	x	x	x	Addressed in Council GA	–
Member states to integrate enabling framework for REC into their integrated energy and climate plans	–	x	–	An assessment of the enabling framework shall be part of the integrated national energy and climate plans	–

Source: Table by author, based on Council of the European Union (2018)

## Outlook

Article 22 of the proposed Renewable Energy Directive sets forth new provisions on REC to empower them to participate in the market on a level playing field. This can be regarded an innovative and promising step. However, the fulfillment of four out of five special criteria for REC as proposed in the European Commission might lead to control and enforcement problems. Regarding the creation of an enabling framework for RECs, the Commission proposal lacks clearly behind the ambitions of the Parliament which, inter alia, proposes to make the enabling framework for REC an integral part of the future national integrated energy and climate plans. Although the Parliament (and partly also the Council) proposed to create an enabling framework for REC, it is still not clear to what extent elements of such a framework will feed into the final compromise. Hence, the perspectives for REC to benefit from accompanying support measures on the European level are still unclear. The same applies for the overall binding EU target for renewable energy in final energy consumption, although there are recent signals from the Council to move to an overall target for renewable energy between 30% and 33%.

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