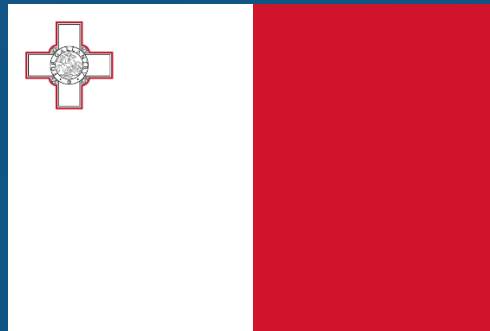


ENERGY
COMMUNITIES
REPOSITORY

Malta



OVERVIEW OF THE POLICY FRAMEWORK

Published on 28/08/2023



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DISCLAIMER

The content of this document aims to establish an overview of the national legal developments in the context of the Clean Energy Package for the Member State mentioned above. **The document includes only final legislation which was published before the end of March 2023. It does not include provisions that are not yet applicable under law (i.e., currently drafted or discussed).**

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Overview

According to the Energy Communities Repository's research, Malta transposed the EU provisions for Renewable Energy Communities (RECs) introduced by the Directive (EU) 2018/2001 (RED II) with Subsidiary Legislation 545.35 and the provisions for Citizen Energy Communities (CECs) introduced by the Directive (EU) 2019/944 (IEMD) with Subsidiary legislation 545.34 (Electricity Regulations). Subsidiary Legislation 545.35 was published on 28 December 2021, as amended by Legal Notice 53 of 2023 and Subsidiary legislation 545.34 was published on 4 June 2021, as amended by Legal Notice 44 of 2023. Malta specified in the national legislation that the regulation on RECs shall apply without prejudice to Malta's right to exercise the derogations granted pursuant to Article 66 of 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 (recast) (article 24(8)).

1. Definition(s)

Malta introduced legislation for both RECs and CECs. The two definitions and the national legal framework follow exactly the EU Directives. RECs and CECs have been introduced in two different pieces of legislation and have some similarities such as their main purpose and their not-for profit nature, but also some differences on i.e. membership and governance, following the EU provisions. The legislation does not specify any authority that is responsible to oversee the implementation of the energy community provisions at the national level.

1.1. Renewable Energy Community definition

The national legislation¹ clarifies that a renewable energy community is a legal entity:

- (a) which, in accordance with the applicable law, is based on an 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;
- (b) the shareholders or members of which are natural persons, small and medium enterprises (SMEs) or local authorities, including municipalities;
- (c) 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.

The legislation does not specify the legal form that a REC can take.

¹ Subsidiary Legislation 545.35.



1.2. Citizen Energy Community definition

The national legislation² specifies that a citizen energy community is a legal entity that:

- (a) is based on voluntary and open participation and is effectively controlled by members or shareholders that are natural persons, local authorities, including municipalities, or small enterprises;
- (b) has for its primary purpose to 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; and
- (c) may engage in generation, including from renewable sources, distribution, supply, consumption, aggregation, energy storage, energy efficiency services or charging services for electric vehicles or provide other energy services to its members or shareholders.

The legislation does not specify the legal form that a CEC can take.

Except for the definition of a CEC and the specification that it should be effectively controlled by its members or stakeholders, the national law also defines control, which means rights, contracts or other means which, either separately or in combination and having regard to the considerations of fact or law involved, confer the possibility of exercising decisive influence on an undertaking, in particular by:

- (a) ownership or the right to use all or part of the assets of an undertaking;
- (b) rights or contracts which confer decisive influence on the composition, voting or decisions of the organs of an undertaking.

2. Rights and obligations

2.1. Renewable Energy Community

The national law mentions that the regulatory framework for citizen energy communities envisaged by regulation 13 of the Electricity Regulations shall ensure that final customers, in particular household customers, are entitled to participate in a renewable energy community while maintaining their rights or obligations as final customers, and without being subject to unjustified or discriminatory conditions or procedures that would prevent their participation in a renewable energy community, provided that for private undertakings, their participation does not constitute their primary commercial or professional activity.³

² Subsidiary Legislation 545.34.

³ Article 24(1) of Subsidiary Legislation 545.35.



The national legislation also specifies that the regulatory framework shall ensure that renewable energy communities are entitled to:

- (a) produce, consume, store and sell renewable energy, including through renewables power purchase agreements;
- (b) share, within the renewable energy community, renewable energy that is produced by the production units owned by that renewable energy community, subject to the other requirements laid down in this regulation and to maintaining the rights and obligations of the renewable energy community members as customers;
- (c) access all suitable energy markets both directly or through aggregation in a non-discriminatory manner.⁴

Finally, the law states that the Regulatory framework may provide for renewable energy communities to be open to cross-border participation.⁵

2.2. Citizen Energy Community

The national legislation mentions that the Minister shall ensure as part of the enabling regulatory framework for citizen energy communities that:

- (a) participation in a citizen energy community shall be open and voluntary.
- (b) members or shareholders of a citizen energy community shall be entitled to leave the community, in which case Regulation 9 shall apply.
- (c) members or shareholders of a citizen energy community shall not lose their rights and obligations as household customers or active customers.⁶

As mentioned in the definition for CECs, the latter can engage in the following activities: generation, including from renewable sources, distribution, supply, consumption, aggregation, energy storage, energy efficiency services or charging services for electric vehicles or provide other energy services to its members or shareholders.

Furthermore, according to the national law, citizen energy communities shall be:

- (a) able to access all electricity markets, either directly or through aggregation, in a non-discriminatory manner;

⁴ Article 24(2) of Subsidiary Legislation 545.35.

⁵ Article 24(6) of Subsidiary Legislation 545.35.

⁶ Article 13(1) of Subsidiary Legislation 545.34.



(b) treated in a non-discriminatory and proportionate manner with regard to their activities, rights and obligations as final customers, producers, suppliers, distribution system operators or market participants engaged in aggregation;

(c) financially responsible for the imbalances they cause in the electricity system, to that extent they shall be balance responsible parties or shall delegate their balancing responsibility in accordance with Article 5 of Regulation (EU)2019/943: Provided that until such time that a liquid intraday market is developed the DSO shall be delegated with the balancing responsibility;

(d) with regard to consumption of self-generated electricity, citizen energy communities shall be treated like active customers in accordance with regulation 12(2)(b)(i);

(e) may arrange within the citizen energy community the sharing of electricity that is produced by the production units owned by the community, subject to other requirements laid down in this regulation and subject to the community members retaining their rights and obligations as final customers. For the purposes of paragraph (e), where electricity is shared, this shall be without prejudice to applicable network charges, tariffs and levies, in accordance with a transparent cost-benefit analysis of distributed energy resources developed by the competent national authority: Provided that the aforesaid sharing of electricity shall not be carried out until such time that the derogation under paragraph 5 of Article 66 of the Directive applies.⁷

3. Assessment of obstacles and potential and removal of unjustified barriers

The national legislation mentions that the Minister shall carry out an assessment of the existing barriers and potential of development of renewable energy communities.⁸

4. Enabling framework

4.1. Renewable Energy Community

The national legislation states that the enabling framework shall promote and facilitate the development of renewable energy communities and shall ensure, inter alia, that:

⁷ Article 13(3) of Subsidiary Legislation 545.34.

⁸ Article 24(3) of Subsidiary Legislation 545.35.



- (a) unjustified regulatory and administrative barriers to renewable energy communities are removed;
- (b) renewable energy communities that supply energy or provide aggregation or other commercial energy services are subject to the provisions relevant for such activities;
- (c) the relevant distribution system operator cooperates with renewable energy communities to facilitate energy transfers within renewable energy communities;
- (d) renewable energy communities are subject to fair, proportionate and transparent procedures, including registration and licensing procedures, and cost-reflective network charges, as well as relevant charges, levies and taxes, ensuring that they contribute, in an adequate, fair and balanced way, to the overall cost sharing of the system in line with a transparent cost-benefit analysis of distributed energy sources developed by the national competent authorities;
- (e) renewable energy communities are not subject to discriminatory treatment with regard to their activities, rights and obligations as final customers, producers, suppliers, distribution system operators, or as other market participants;
- (f) the participation in the renewable energy communities is accessible to all consumers, including those in low-income or vulnerable households;
- (g) tools to facilitate access to finance and information are available;
- (h) regulatory and capacity-building support is provided to public authorities in enabling and setting up renewable energy communities, and in helping authorities to participate directly;
- (i) rules to secure the equal and non-discriminatory treatment of consumers that participate in the renewable energy community are in place.⁹

More specifically on tools to facilitate access to information, the Regulator, the Building and Construction Authority, the Permanent Secretary responsible for Social Policy and, or Social Accommodation and any other relevant public authorities are required to make available information on support measures falling under their respective remit to all relevant actors. This includes consumers including low-income, vulnerable consumers, renewables self-consumers, renewable energy communities, builders, installers, suppliers of heating, cooling and electricity equipment and systems, and suppliers of vehicles compatible with the use of renewable energy and of intelligent transport systems.¹⁰ The Regulator, where appropriate with the participation of relevant public authorities, shall further develop suitable information, awareness-raising, guidance or training programmes in order to inform citizens of how to exercise their rights as active customers, and of the benefits and practicalities, including technical and financial aspects, of developing and using energy from renewable sources, including by renewables self-consumption or in the framework of renewable energy communities.¹¹

⁹ Article 24(4) of Subsidiary Legislation 545.35.

¹⁰ Article 21(1) of the Subsidiary Legislation 545.35.

¹¹ Article 21(6) of the Subsidiary Legislation 545.35.



Finally the legislation specifies that the main elements of the enabling framework referred to in sub-regulation (4), and of its implementation, shall be part of the updates of the integrated national energy and climate plans and progress reports pursuant to Regulation (EU) 2018/1999.¹²

4.2. Citizen Energy Community

The national legislation specifies that the Minister should develop an enabling framework for CECs, which should ensure that, subject to fair compensation as assessed by the Regulator, relevant distribution system operators shall cooperate with citizen energy communities to facilitate electricity transfers within citizen energy communities. Citizen energy communities shall also be subject to non-discriminatory, fair, proportionate and transparent procedures and charges, including with respect to registration and licensing, and to transparent, non-discriminatory and cost-reflective network charges in accordance with Article 18 of Regulation (EU) 2019/943, ensuring that they contribute in an adequate and balanced way to the overall cost sharing of the system.¹³

The Minister may provide in the enabling regulatory framework that citizen energy communities:

- (a) shall be open to cross-border participation;
- (b) shall be entitled to own, establish, purchase or lease distribution networks and to autonomously manage them subject to conditions set out in sub-regulation (4);
- (c) shall be subject to the exemptions provided for in regulation 35(2).¹⁴

In more detail, the law states that the Minister may decide to grant citizen energy communities the right to manage distribution networks in their area of operation and establish the relevant procedures, without prejudice to Chapter IV of the Directive or to other rules and regulations applying to distribution system operators. If such a right is granted, citizen energy communities shall:

- (a) be entitled to conclude an agreement on the operation of their network with the relevant distribution system operator or transmission system operator to which their network is connected;
- (b) be subject to appropriate network charges at the connection points between their network and the distribution network outside the citizen energy community and that such network charges account separately for the electricity fed into the distribution network and the electricity consumed from the distribution network outside the citizen energy community in accordance with regulation 47(4);
- (c) not discriminate or harm customers who remain connected to the distribution system.¹⁵

¹² Article 24(5) of the Subsidiary Legislation 545.35.

¹³ Article 13(1) of Subsidiary Legislation 545.34.

¹⁴ Article 13(2) of Subsidiary Legislation 545.34.

¹⁵ Article 13(4) of Subsidiary Legislation 545.34.



5. Access to financing and support for Renewable Energy Communities

The national legislation highlights that without prejudice to Articles 107 and 108 TFEU, the Minister shall take into account 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.¹⁶

6. Other provisions on energy communities

6.1. Renewable Energy Communities

The national legislation mentions that the Minister shall undertake the necessary coordination with the relevant Ministries as necessary such that provisions may be made by the relevant authorities for the integration and deployment of renewable energy, including for renewables self-consumption and renewable energy communities, and the use of unavoidable waste heat and cold when planning, including early spatial planning, designing, building and renovating urban infrastructure, industrial, commercial or residential areas and energy infrastructure, including electricity, district heating and cooling, natural gas and alternative fuel networks. The Minister shall, in particular, coordinate with the relevant Ministries as necessary such that relevant authorities are encouraged to include heating and cooling from renewable sources in the planning of city infrastructure where appropriate, and to consult the network operators to reflect the impact of energy efficiency and demand response programs as well as specific provisions on renewables self-consumption and renewable energy communities, on the infrastructure development plans of the operators.¹⁷

Moreover, the legislation on RECs highlights that this regulation shall apply without prejudice to Malta's right to exercise the derogations granted pursuant to Article 66 of 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 (recast).¹⁸

6.2. Citizen Energy Communities

The legislation on CECs states that the Regulator shall have the duty to monitor the removal of unjustified obstacles to and restrictions on the development of consumption of self-generated electricity and CECs.¹⁹

¹⁶ Article 24(7) of the Subsidiary Legislation 545.35.

¹⁷ Article 18(4) of the Subsidiary Legislation 545.35.

¹⁸ Article 24(8) of the Subsidiary Legislation 545.35.

¹⁹ Article 47(1)(z) of Subsidiary Legislation 545.34.



Furthermore, it clarifies that within such time specified by the Regulator and following such consultation processes as the Regulator may direct to be made, the distribution system operator shall prepare, keep updated and publish a "network code", and subject to the approval of the Regulator, defining the technical safety criteria and the technical rules establishing the minimum technical design and operational requirements for the connection to the system of:

- (a) generating installations;
- (b) energy storage;
- (c) distribution systems;
- (d) directly connected consumers' equipment;
- (e) interconnector circuits;
- (f) direct lines; and
- g) renewable and citizen energy communities.²⁰

References

- Subsidiary Legislation 545.35, Promotion of Energy from Renewable Sources Regulations, Legal Notice 503 of 2021, as amended by Legal Notice 53 of 2023. Consolidated version: <https://legislation.mt/eli/sl/545.35/eng>
- Subsidiary legislation 545.34, Electricity Regulations, Legal Notice 235 of 2021, as amended by Legal Notice 44 of 2023. Consolidated version: <https://legislation.mt/eli/sl/545.34/eng>

²⁰ Article 29(1) of Subsidiary Legislation 545.34.

