



ENERGY
COMMUNITIES
REPOSITORY

Romania



OVERVIEW OF THE POLICY FRAMEWORK

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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, Romania introduced its national legislation provisions for Renewable Energy Communities (RECs) through the emergency ordinance 163/2022¹ published in the official monitor no 1165 of December 6, 2022. Citizen Energy Communities (CECs) were introduced through the emergency ordinance 143/2021 published in the official monitor no 1259 of December 31, 2021, which amends the Electricity and Natural Gas Law no. 123/2012.² The national legislation allocates to the National Regulatory Authority, ANRE, the responsibility to elaborate on some elements of the legislation for energy communities, such as the enabling frameworks for RECs and CECs.

1. Definitions

Both definitions for RECs and CECs are included in the Romanian legislation with two different ordinances. There is no explicit connection being made between the two definitions. There was no other pre-existing concept in Romania, energy communities are hence a new model there.

1.1. Renewable Energy Community definition

The national legislation defines a REC as a legal entity that, cumulatively, meets the following conditions:

- a) in accordance with the applicable domestic law, the community is based on open and voluntary participation, is autonomous and is effectively controlled by shareholders or members located near the renewable energy projects owned and developed by said legal entity;
- b) shareholders or members are natural persons, small and medium enterprises (SMEs) or local authorities, including municipalities;
- c) the main objective is to provide economic, social or environmental benefits to its shareholders, members or the local areas where it operates, rather than financial profits.³

1.2. Citizen Energy Community definition

The ordinance 143/2021 amends provisions of the electricity and natural gas law no 123/2012, adding a definition for CECs. In more detail, a CEC is a legal entity that meets, cumulatively, the following conditions:

¹ Emergency ordinance no 163 of November 29, 2022 for the completion of the legal framework for the promotion of the use of energy from renewable sources, as well as for the modification and completion of some normative acts.

² Ordinance no. 143 of December 28, 2021 for the amendment and completion of the Electricity and Natural Gas Law no. 123/2012, as well as for the modification of some normative acts.

³ Article 2(18) of the Emergency ordinance no 163/2022



- a) the community is based on voluntary and open participation and is effectively controlled by members or shareholders who are natural persons, local authorities, including municipalities, or small businesses;
- b) has as its main objective the provision of environmental, economic or social benefits for its members or shareholders or for the local areas where it operates, rather than generating financial profits;
- c) may engage in production, including production from renewable sources, distribution, supply, consumption, aggregation, energy storage, energy efficiency services, or charging services for electric vehicles or may provide other energy services to its members or shareholders.⁴

2. Rights and obligations

2.1. Renewable Energy Community

The national law mentions that end-customers, especially household customers, have the right to participate in a REC while maintaining their rights and obligations as end-customers and without being subject to unjustified or discriminatory conditions or procedures that could prevent them from participating in a REC, provided that, in the case of private enterprises, the activity of producing electricity does not constitute their main commercial or professional activity.⁵

In more detail, it is specified that RECs have the right:

- a) to produce, consume, store and sell energy from renewable sources, including through electricity purchase contracts from renewable sources;
- b) to jointly use, within the REC, the energy from renewable sources produced by the production units owned by the community, respecting the requirements established in the legislation and maintaining the rights and obligations of the members of the REC as customers;
- c) to have access to all appropriate energy markets, both directly and through aggregation, in a non-discriminatory manner.⁶

2.2. Citizen Energy Community

The national legislation states that the participation in a CEC is open and voluntary, and its members or shareholders retain their rights and obligations as household customers or active customers.⁷ Moreover, CECs may participate in energy sector activities and engage in production, including from renewable sources, distribution, supply, consumption, aggregation, energy storage, energy efficiency services or

⁴ Article 3(24) of the law no 123/2012, as amended by the ordinance 143/2021.

⁵ Article 22(1) of the Emergency ordinance no 163/2022

⁶ Article 22(2) of the Emergency ordinance no 163/2022

⁷ Article 63¹(1) of the law no 123/2012, as amended by the ordinance 143/2021



electric vehicle charging services or may provide other energy services to their members or shareholders, including by carrying out such integrated activities.⁸

In addition, Citizen Energy Communities:

- can access all electricity markets, directly or through aggregation, in a non-discriminatory manner and are open to cross-border participation;
- are 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 involved in aggregation;
- are financially responsible for the imbalances they cause in the energy system;
- can act as balancing parties or delegate their balancing responsibility;
- are assimilated to active customers for the consumption of electricity produced;
- have the right to organize within their community the sharing of electricity generated by the production units owned by the community, among its members, with the condition of maintaining the rights and obligations of the members as end customers in compliance with the provisions of national legislation, and without changing the established network tariffs and fees, according to the ANRE methodology.⁹

The national legislation also recognises that CECs have the right to own, establish, buy or rent distribution networks and manage them autonomously, benefiting from the provisions applicable to closed distribution systems.¹⁰ CECs can autonomously manage the distribution networks located in their consumption area, hereinafter referred to as "community networks", in accordance with the regulations issued by ANRE.¹¹ Without prejudice to relevant national legislation and the general rules governing distribution activities, CECs who manage the community network:

- a) have the right to conclude an agreement regarding the operation of their network with the distribution system operator or the transmission system operator to which the network is connected;
- b) are subject to appropriate network tariffs at the connection points between their network and the distribution network outside the CEC and that these network tariffs separately account for the electricity fed into the distribution network and the electricity consumed from the distribution network from outside the CEC;
- c) do not discriminate against or harm customers who remain connected to the distribution system.¹²

⁸ Article 63¹(3) of the law no 123/2012, as amended by the ordinance 143/2021

⁹ Article 63¹(5) of the law no 123/2012, as amended by the ordinance 143/2021

¹⁰ Article 63¹(6) of the law no 123/2012, as amended by the ordinance 143/2021

¹¹ Article 63¹(7) of the law no 123/2012, as amended by the ordinance 143/2021

¹² Article 63¹(8) of the law no 123/2012, as amended by the ordinance 143/2021



Furthermore, there are relevant provisions in national legislation for CECs that manage distribution networks. More specifically, it is stated that connection to public interest electricity networks and access to public interest electricity networks are mandatory services, under regulated conditions, that must be fulfilled by the transmission and system operator, as well as the distribution operator, including CECs that manage distribution networks.¹³

It is also regulated that the connection of users and access to the network can only be restricted if the connection affects the safety of the system, by not complying with the technical norms and performance standards provided for in the technical regulations in force or if the transmission operator, the distribution operator or the CEC who manage the distribution networks do not have the necessary capacities. The refusal must be properly motivated and justified based on objective criteria, from a technical and economic point of view, according to the regulations issued by ANRE.¹⁴ In case of refusal to connect users to the transmission network, the distribution network or the distribution network managed by CECs, ANRE ensures that the transmission operator, the distribution operator or the CEC provide information on the necessary measures to strengthen the network.¹⁵

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

The national legislation mentions that the competent Ministry coordinates the evaluation of the existing obstacles and the development potential at the national level of the renewable energy communities.¹⁶

4. Enabling framework

4.1. Renewable Energy Community

The national law states that competent central public administration authorities, local public administration authorities under the conditions of articles 8 and 9 of the Law on the public service of thermal energy supply no. 325/2006 (with subsequent amendments and additions) as well as ANRE have the obligation to contribute, in accordance with the specific field of activity, to ensuring a favorable framework for the promotion and facilitation of the development of RECs.¹⁷

¹³ Article 25(1) of the law no 123/2012, as amended by the ordinance 143/2021

¹⁴ Article 25(2) of the law no 123/2012, as amended by the ordinance 143/2021

¹⁵ Article 25(2[^]1) of the law no 123/2012, as amended by the ordinance 143/2021

¹⁶ Article 22(3) of the Emergency ordinance no 163/2022

¹⁷ Article 22(4) of the Emergency ordinance no 163/2022



Such enabling framework should ensure that:

- a) unjustified regulatory and administrative barriers to RECs are removed;
- b) RECs that provide energy or aggregation services or other commercial energy services fall under the relevant provisions for such activities;
- c) distribution operators cooperate with RECs to facilitate energy transfers within these communities;
- d) RECs are subject to fair, proportionate and transparent procedures, including registration and licensing procedures, and cost-reflective network charges, as well as applicable fees, tariffs and taxes, ensuring that they contribute in an adequate, fair and balanced manner to the sharing of the total costs of the system in accordance with a transparent analysis of the costs and benefits of distributed energy sources developed by the competent national authorities;
- e) RECs benefit from non-discriminatory treatment in terms of their activities, rights and obligations as final customers, producers, suppliers, distribution operators or other type of market participants;
- f) participation in a REC is accessible to all consumers, including those from vulnerable or low-income households;
- g) tools are available to facilitate access to finance and information;
- h) local public authorities are given support for the development of the regulatory framework and for strengthening the administrative capacity for the establishment and promotion of RECs and for encouraging the authorities to participate directly;
- i) there are rules to ensure equal and non-discriminatory treatment for consumers participating in a REC.¹⁸

The main elements of the favorable framework provided for above and its implementation are part of the updates of the integrated national energy and climate plan and of the interim reports, based on Regulation (EU) 2018/1.999.¹⁹

Moreover, the national legislation highlights that central and local public administration authorities with responsibilities in the field of promoting energy from renewable sources organize appropriate information programs regarding support measures, which they make available to all relevant factors, as well as to consumers, including vulnerable consumers with low-income, renewable energy prosumers, renewable energy communities, builders, installers, architects, heating, cooling and electrical equipment and system suppliers, and energy-efficient vehicle suppliers from renewable sources and smart transport systems.²⁰ Such information is published on the websites of the central and local public administration authorities.²¹

¹⁸ Article 22(5) of the Emergency ordinance no 163/2022

¹⁹ Article 22(6) of the Emergency ordinance no 163/2022

²⁰ Article 18(1) of the Emergency ordinance no 163/2022

²¹ Article 18(2) of the Emergency ordinance no 163/2022



In addition, it is mentioned that ANRE organizes, from its own budget, with the participation of local public administration authorities, appropriate information, orientation or training programs, in order to inform citizens about how they can exercise their rights as active customers and about the advantages and the practical aspects, including technical and financial aspects of the development and use of energy from renewable sources, including through self-consumption of energy from renewable sources or within RECs. Information about these programs is published on the website of ANRE and those of the local public administration authorities.²² In order to fulfill this provision, local public administration authorities have the possibility to include in their own budget amounts for this purpose.²³

4.2. Citizen Energy Community

The national legislation clarifies that CECs are subject to non-discriminatory, fair, proportional and transparent procedures and tariffs, including registration and licensing, provided for in the regulations issued by ANRE.²⁴ Furthermore, CECs cooperate with distribution system operators to facilitate electricity transfers within the community subject to fair compensation established by ANRE regulations.²⁵ Also the legislation specifies that transparent and non-discriminatory network tariffs calculated separately for the electricity introduced into the network and for the electricity consumed are applied to CECs, while also network tariffs are applied to CECs in a transparent and non-discriminatory manner, according to the ANRE methodology.²⁶

5. Access to financing and support for Renewable Energy Communities

The national legislation for RECs highlights that their specificities shall be taken into account when designing the support schemes, in order to allow them to compete for support on equal footing with other market participants.²⁷

²² Article 18(5) of the Emergency ordinance no 163/2022

²³ Article 18(6) of the Emergency ordinance no 163/2022

²⁴ Article 63[^]1(2) of the law no 123/2012, as amended by the ordinance 143/2021

²⁵ Article 63[^]1(4) of the law no 123/2012, as amended by the ordinance 143/2021

²⁶ Article 63[^]1(5f and h) of the law no 123/2012, as amended by the ordinance 143/2021

²⁷ Article 22(7) of the Emergency ordinance no 163/2022



6. Other provisions on energy communities

6.1. Renewable Energy Communities

The national legislation defines how the final gross consumption of energy from renewable sources is calculated and specifically mentions that for this purpose, the gross final consumption of electricity from renewable sources is calculated as the amount of electricity produced from renewable sources, including the production of electricity from prosumers of energy from renewable sources and from energy communities from renewable sources, and excluding the production of electricity in pumped storage plants from water previously pumped upwards.²⁸

Moreover, the provision of the national law that regulates the authorization, certification and licensing procedures that apply to power plants and related transmission and distribution networks for the production of electricity and heating or cooling from renewable sources mentions that the public authorities responsible for the design, construction and renovation of urban infrastructure, industrial, commercial or residential areas and energy infrastructure, including electricity networks, central heating and cooling, natural gas and alternative fuels, issue provisions that:

- a) aim at the integration and use of energy from renewable sources;
- b) cover self-consumption of energy from renewable sources and RECs, as well as the use of unavoidable residual heat and cooling.²⁹

It also states that local government authorities shall include in their urban infrastructure plans, where appropriate, heating and cooling from renewable sources, and shall consult with network operators to take into account their impact on the infrastructure development plans, energy efficiency programs and active demand participation, as well as specific provisions related to renewable self-consumption and RECs.³⁰ Finally, for decentralized installations and for the production and storage of energy from renewable sources, simplified authorization procedures are established, including through a simple notification procedure.³¹

²⁸ Article 7(4)(a) of the Emergency ordinance no 163/2022

²⁹ Article 15(8) of the Emergency ordinance no 163/2022

³⁰ Article 15(9) of the Emergency ordinance no 163/2022

³¹ Article 15(4) of the Emergency ordinance no 163/2022



References

- Emergency ordinance no. 143 of December 28, 2021 for the amendment and completion of the Electricity and Natural Gas Law no. 123/2012 , as well as for the modification of some normative acts, published in the Official Monitor no. 1259 of December 31, 2021. Consolidated version: <https://legislatie.just.ro/Public/DetaliiDocument/250107>
- Emergency ordinance no. 163 of November 29, 2022 for the completion of the legal framework for the promotion of the use of energy from renewable sources, as well as for the modification and completion of some normative acts, published in the Official Monitor no. 1165 of December 6, 2022. Consolidated version: <https://legislatie.just.ro/Public/DetaliiDocument/262191>