



ENERGY COMMUNITIES REPOSITORY

Portugal



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, Portugal initially introduced provisions for Renewable Energy Communities with the Decree 162/2019, which approved the legal regime applicable to self-consumption of renewable energy. However this law was repealed by the Decree 15/2022, which establishes the organisation and operation of the National Electrical System.¹ The latter introduced provisions for both Renewable Energy Communities (RECs) and Citizen Energy Communities (CECs) and lists CECs and RECs among the stakeholders involved in the National Electric System.²

Definitions

The national legislation has introduced definitions for both RECs and CECs.

1.1. Renewable Energy Community definition

The national legislation defines RECs as legal entities with open and voluntary membership. Its members, partners or shareholders may be natural or legal persons, whether public or private, including, namely, small and medium-sized companies or local authorities, who control the community and which, cumulatively have to fulfil the following conditions:

- a) Members or participants should be located in the vicinity of renewable energy projects or develop activities related to renewable energy projects of the respective energy community, necessarily including production units for self-consumption;
- b) Said projects should be owned and developed by the REC or by third parties, provided that they are for the benefit and service of the former;
- c) The main objective of the REC is to provide environmental, economic and social benefits to members or area where the community operates, rather than financial profits.³

1.2. Citizen Energy Community definition

¹ According to article 305 of the Decree 15/2022

² Article 8(1)(o) and (p) of the Law 15/2022

³ Article 189(1) of the Law 15/2022



According to national legislation, a CEC is a legal entity with open and voluntary membership. Its members, partners or shareholders may be natural or legal persons, whether public or private, including, namely, small and medium-sized companies or local authorities. The CEC:

- a) Aims to provide environmental, economic or social benefits to its members or shareholders or to the local areas where it operates, their main objective not being to obtain financial profits;
- b) May participate in production activities, including energy from renewable sources, distribution, marketing, consumption, aggregation, energy storage, provision of energy efficiency services or charging services for electric vehicles or provide other energy services to its members or shareholders.⁴

The law also clarifies that CECs are governed by the provisions of the articles referring to RECs with the following specificities:

- a) They may own, establish, buy or rent closed distribution networks and carry out the respective management, under the terms defined in the law;
- b) They can produce, distribute, trade, consume, aggregate and store energy regardless of whether the primary source is renewable or non-renewable.⁵

Rights and obligations

The law specifies that RECs and CECs have the power to:

- a) Produce, consume, store, buy and sell renewable energy together with its members or third parties;
- b) Share and market among its members the renewable energy produced by production units for self-consumption at its service, in compliance with the other requirements set out in the law, without prejudice to REC members maintaining their rights and obligations as consumers;
- c) Access all energy markets, including system services, both directly and through aggregation.⁶

The exercise of the activities referred to above is carried out under the terms defined in the decree 15/2022 on the organisation and operation of the National Electrical System.⁷

Furthermore, the law specifies that the REC or the CEC is fully responsible for deviations that it causes in the National Electric System under the terms defined in the Network Operation Regulations, and may transfer this responsibility to an aggregator or its designated representative.⁸ Moreover, it is mentioned that consumers' access to a REC or CEC cannot be subject to unjustified or discriminatory conditions or procedures that prevent their participation.⁹ The REC or CEC must admit the departure of any of its participants, subject to compliance

⁴ Article 191(1) of the Law 15/2022

⁵ Article 191(2) of the Law 15/2022

⁶ Article 189(2) of the Law 15/2022

⁷ Article 189(3) of the Law 15/2022

⁸ Article 189(4) of the Law 15/2022

⁹ Article 189(5) of the Law 15/2022



with the obligations to which they are bound.¹⁰ RECs and CECs may, in addition to the modes of sharing provided below, share energy through the use of specific dynamic management systems.¹¹

The national law also guarantees consumers the right to join RECs, CECs and to actively participate in electricity markets or establish bilateral contracts, directly or through an aggregator.¹² In addition, the law mentions that in terms of rights, duties and counting of energy produced in the REC and commercial relationship, the rules of collective self-consumption are applicable, with the necessary adaptations.¹³ Specifically, on self-consumption, the law specifies that consumers are guaranteed the right to become self-consumers, under the conditions set out in the law.¹⁴ Consumers engaged in self-consumption activities are assured that:

- a) Network access tariffs are based on the respective costs;
- b) The definition of other applicable charges, fees and taxes contributes in an adequate, fair and balanced way to sharing the global costs of the system, in line with a transparent analysis of the cost-benefit ratio of the distribution of energy sources developed by the national competent authorities;
- c) Participation in energy communities is accessible to all consumers, including low-income or vulnerable families;
- d) The option of ceasing to be part of an energy community is free and does not imply any charge resulting from the change;
- e) Information regarding the procedures to be adopted for the constitution and participation in an energy community, including simulation tools of the respective technical and economic viability, as well as the financial instruments is made available in a simple, transparent and free of charge manner.¹⁵

More specifically on collective self-consumption, the law regulates that self-consumers participating in collective self-consumption have an internal regulation that is communicated to the Directorate-General for Energy and Geology (DGEG), within a maximum period of three months after the production unit for self-consumption comes into operation, and which defines, at least, the requirements for access of new members and exit of existing participants, the required deliberative majorities, the mode of sharing the electricity produced for self-consumption and the payment of due tariffs, as well as the destination of surplus self-consumption and the commercial relationship policy to be adopted.¹⁶

Furthermore, the law states that self-consumers participating in collective self-consumption must designate the collective self-consumption management entity, which is responsible for carrying out the operational management acts of the current activity, including the management of the internal network, when it exists, the articulation with the electronic platform provided for in legislation, the connection with public service electrical network and articulation with the respective operators, namely in terms of production sharing and respective coefficients, when applicable, the commercial relationship to be adopted for surpluses, as well as others committed by self-consumers.¹⁷

¹⁰ Article 189(6) of the Law 15/2022

¹¹ Article 189(7) of the Law 15/2022

¹² Article 180(3) of the Law 15/2022

¹³ Article 190 of the Law 15/2022

¹⁴ Article 187(1) of the Law 15/2022

¹⁵ Article 187(2) of the Law 15/2022

¹⁶ Article 86(1) of the Law 15/2022

¹⁷ Article 86(2) of the Law 15/2022



In the case of a REC or CEC, the functions of the collective self-consumption management entity are, respectively, carried out by the communities or by another entity to whom they delegate these functions.¹⁸ Self-consumers participating in collective self-consumption, a REC or CEC are jointly responsible for fulfilling the duties and obligations established in the law 15/2022 and other applicable regulations.¹⁹

In addition, according to the provisions on energy sharing, the collective self-consumption management entity, in cases where the production unit for self-consumption is connected to the public service electrical network, directly or through an internal network, must communicate to the network operator, through the electronic platform provided for in legislation, which sharing method is intended for the distribution of the production unit for self-consumption production by the self-consumers participating in the collective self-consumption and its alterations. In the absence of such communication, the network operator distributes it by apportionment to each electrical installation based on the measured consumption, within the time period defined in the Energy Services Regulatory Entity (ERSE) regulation.²⁰

The modes of sharing referred to above may be based on:

- a) fixed coefficients differentiated, among others, by working days and holidays or weekends that may or may not take into account the seasons of the year;
- b) variable coefficients defined based on criteria, hierarchy, consumption measured in each period within the time period defined in ERSE regulations;
- c) the combination of any of the modalities referred to above, under the terms of ERSE regulations.²¹

Energy sharing can also be carried out based on specific dynamic management systems, which enable monitoring, control and dynamic management of energy, in real time, with a view to optimizing energy flows.²² For the purposes of dynamic management, the systems to be adopted must:

- a) Have access to the necessary data of the network operator for its correct operation, namely meter readings;
- b) Provide the network operator with the energy shared of each self-consumption member or the respective sharing coefficient, for deduction from the consumption measured in the measuring equipment;
- c) Ensuring interoperability with the network operator's systems, by providing interested parties with the necessary requirements for this purpose.²³

Without prejudice to the provisions above, the sharing of energy carried out based on specific dynamic management systems, as well as the implementation of their interoperability, is subject to regulation by ERSE, after consulting the DGEG.²⁴

¹⁸ Article 86(3) of the Law 15/2022

¹⁹ Article 86(4) of the Law 15/2022

²⁰ Article 87(1) of the Law 15/2022

²¹ Article 87(2) of the Law 15/2022

²² Article 87(3) of the Law 15/2022

²³ Article 87(4) of the Law 15/2022

²⁴ Article 87(5) of the Law 15/2022



The law adds that for collective self-consumption, except in the case of new adhesions or departures, the modes of sharing the energy produced are changed under the terms of ERSE regulations.²⁵ The network operator's systems are adapted within a period of six months in order to allow the measurement of the consumption, with ERSE being responsible for defining the sharing model referred to above.²⁶ When the communication of the sharing model has an impact on the billing of each self-consumer, the network operator executes it in the billing period immediately following that of the express or tacit formation of its acceptance.²⁷

Moreover, the law mentions that the network operator must provide:

- a) the information necessary for the correct invoicing of the different participants in self-consumption, under the terms of ERSE regulations;
- b) the information on the energy produced and not consumed in the time period defined in the ERSE regulations, indicating the surplus injected into the network by each electrical installation of self-consumers;
- c) the requirements and specifications necessary to comply with the provisions of the law.^{28,29}

Finally, the law clarifies that matters of measuring, reading and making data available, compensation owed by network operators for non-compliance with the information and instructions mentioned above, as well as other matters regulated in the law are subject to regulation by ERSE.³⁰ The supply of reactive energy complies with the rules of the Grid Regulations.³¹

Assessment of obstacles and potential and removal of unjustified barriers

Such official assessment of barriers and potential has not been published.

Enabling framework

1.3. Renewable Energy Community

For starters, with regards to the tariffs applicable to the production unit for self-consumption, the law specifies that the use of the public service electrical network to transmit electricity between the production unit for self-

²⁵ Article 87(6) of the Law 15/2022

²⁶ Article 87(7) of the Law 15/2022

²⁷ Article 87(8) of the Law 15/2022

²⁸ Specifically, the provisions of paragraph c) of paragraph 4 of article 87 of the Law 15/2022

²⁹ Article 87(9) of the Law 15/2022

³⁰ Article 87(10) of the Law 15/2022

³¹ Article 87(11) of the Law 15/2022



consumption and the electrical installation for use is subject to the payment, by the self-consumer or by the energy communities, of the tariffs for accessing the networks applicable to consumption at the voltage level of connection with the electrical installation, which include:

- a) Tariffs for the use of networks of voltage levels upstream of the production unit for self-consumption connection voltage level, when there is energy injection from the public network upstream of the production unit for self-consumption connection voltage level;
- b) Part of the network usage tariffs for voltage levels upstream of the production unit for self-consumption connection voltage level, in the amount to be defined by ERSE, when there is a reversal of energy flow in the public network upstream of the connection voltage level from production unit for self-consumption.³²

The use of internal networks that do not involve the use of the public service electrical network to convey electricity between the production unit for self-consumption and the electrical installation is not subject to any tariff.³³ The provisions to be applied in the calculation of tariffs for accessing networks are established in the Tariff Regulation.³⁴

Moreover, the law adds that the charges with the energy policy, sustainability and general economic interest (which are included in the grid tariffs) corresponding to the electricity self-consumed and provided by the public service electrical network can be, totally or partially, deducted from the tariffs for access to the networks by means of an order of the member of the Government responsible for the energy area, to be issued until 15 September of each year, after consulting ERSE.³⁵ In the absence of such order, it is incumbent upon ERSE to define the part of the energy policy, sustainability and general economic interest charges to be deducted each year from the network access tariffs and to be considered in the tariff calculation.³⁶ This process must take into account the benefits for the self-consumption production system, as well as the absence of disproportionate charges for the long-term financial sustainability of the National Electric System.³⁷

ERSE defines the tariffs for the use of the networks applicable to the collective self-consumption activity that uses energy sharing modes through specific systems with dynamic management, under the terms referred to in the law.³⁸ Such tariffs take into account the situation of the electrical installation connected at a voltage level different from the respective production unit for self-consumption.³⁹

The law also specifies that the Energy Agency (ADENE), in conjunction with other energy agencies and other local agents, ensures support in boosting and promoting self-consumption, as well as training, information and clarification for self-consumers and promoters of self-consumption.⁴⁰ For this purpose, ADENE:

- a) Provides information about:

³² Article 212(1) of the Law 15/2022

³³ Article 212(2) of the Law 15/2022

³⁴ Article 212(3) of the Law 15/2022

³⁵ Article 212(4) of the Law 15/2022

³⁶ Article 212(5) of the Law 15/2022

³⁷ Article 212(6) of the Law 15/2022

³⁸ Article 212(7) of the Law 15/2022

³⁹ Article 212(8) of the Law 15/2022

⁴⁰ Article 90(1) of the Law 15/2022



- i. The procedures for setting up and participating in a REC or CEC or exercising the collective self-consumption activity and respective deadlines, including the provision of guides and manuals;
 - ii. The efficient use of energy with a view to promoting energy efficiency and the rational use of resources;
- b) Develops a simulation tool for analysing the technical and economic feasibility of implementing and developing the individual self-consumption or collective self-consumption, safeguarding compliance with the provisions of the General Data Protection Regulation (GDPR) in situations where access to commercially sensitive or personal information is required;
 - c) Establishes a support line dedicated to those interested in self-consumption.⁴¹

With regard to prior production control procedure for self-consumption, the law states that self-consumption, whether individual or collective, is subject to the prior control procedures provided for in the law.⁴² Within the scope of the prior control procedure, titles are issued in individual self-consumption to the respective self-consumer and, in the case of collective self-consumption, to the condominium represented by the respective administrator, to the collective self-consumption management entity on behalf of the self-consumers or, if any, to the REC or CEC.⁴³

The integration or exclusion of self-consumers in the respective prior control titles, in the cases of collective self-consumption, is carried out through communication on the electronic platform provided in the law and gives rise to annotation, to be carried out by the DGEG, to the respective title.⁴⁴ Consultation with the public service electrical network operator, provided for in the applicable prior control procedures, is waived, except when the possibility of injecting power into the public service electrical network is foreseen and this exceeds:

- a) 50% of the contracted power of the electrical installations with a BTN⁴⁵ consumption profile and 50% of the requested power of the electrical installations for other consumption profiles; or
- b) 30 kVA, when connected to low voltage distribution networks or 100 kVA, when connected to the national electricity distribution network or the national electricity transmission network⁴⁶

The law adds that the exemption from intervention by the public service electrical network operator provided for above is only applicable until the injection capacity in the public service electrical network - to be made available to production units for self-consumption that do not have an injection capacity reserve title under the terms provided for below - is exhausted.⁴⁷ The reservation of injection capacity in the public service electrical network is established by quota set annually by the member of the Government responsible for the energy area, simultaneously with the quota referred to in the law.^{48,49}

Finally, the tools to access finance will be analysed in the section on financing below.

⁴¹ Article 90(2) of the Law 15/2022

⁴² Article 81(1) of the Law 15/2022

⁴³ Article 81(2) of the Law 15/2022

⁴⁴ Article 81(3) of the Law 15/2022

⁴⁵ Low voltage» or «BT» is the voltage between phases whose effective value is equal to or less than 1 kV.

⁴⁶ Article 81(4) of the Law 15/2022

⁴⁷ Article 81(5) of the Law 15/2022

⁴⁸ Specifically, in paragraph 2 of article 20 of the Law 15/2022

⁴⁹ Article 81(6) of the Law 15/2022



1.4. Citizen Energy Community

The law further clarifies that CECs are governed by the provisions of the articles referring to RECs with the following specificities:

- a) They may own, establish, buy or rent closed distribution networks and carry out the respective management, under the terms defined in the law;
- b) They can produce, distribute, trade, consume, aggregate and store energy regardless of whether the primary source is renewable or non-renewable.⁵⁰

In line with the above, the national law sets some rules with regard to CECs setting up and managing closed distribution networks. More specifically, the law states that the general duties of the closed distribution networks operator are those established in the relevant provisions of the distribution network operator regulation.⁵¹ More specifically, the closed distribution networks operator is allowed to:

- a) Engage in the activity of producing electricity from renewable energy sources;
- b) Own, develop, manage or operate charging points for electric vehicles;
- c) Own, develop, manage or operate energy storage facilities;
- d) When constituted in the form of a REC, supply electricity to the respective members.⁵²

Access to financing and support for Renewable Energy Communities

There are no specific measures or references to the Portuguese support scheme for renewables targeting RECs. With regards to financing tools, the national government opened a call to support the implementation of RECs and Collective Self-Consumption in June 2022, financed through the Recovery and Resilience Plan.⁵³ This program aims at promoting electricity generation from renewable energy sources at the community level, including RECs and collective self-consumption. The supported measures are expected to lead to a reduction of 30% of primary energy use in the intervened buildings and an increased renewable generation capacity of 93 MW.

Beneficiaries of such programme are RECs, self-consumers and self-consumption management entities.⁵⁴ The programme finances up to 50% (services buildings), 70% (residential buildings) or 100% (public buildings) of the investment associated with:

- the installation of renewable generation systems, with or without storage;
- the performance of studies and consulting services (limited to 10% of the total eligible investment);
- the acquisition of software and/or smart platforms (limited to 25% of the total eligible investment).

⁵⁰ Article 191(2) of the Law 15/2022

⁵¹ Article 121(1) of the Law 15/2022

⁵² Article 121(3) of the Law 15/2022

⁵³ More information available at: <https://www.fundoambiental.pt/apoios-prr/c13-eficiencia-energetica-em-edificios/c13-i01-02-03-apoio-a-concretizacao-de-comunidades-de-energia-renovavel-e-autoconsumo-coletivo.aspx>

⁵⁴ Ibid



The deadline for submitting applications was 17 February 2023 or until the limit of the budget allocation, whichever comes first.

References

- Decree 162/25 October 2019 approving the legal regime applicable to self-consumption of renewable energy (repealed), available at: <https://diariodarepublica.pt/dr/detalhe/decreto-lei/162-2019-125692189>
- Decree 15/14 January 2022 establishing the organisation and operation of the National Electrical System, available at: <https://diariodarepublica.pt/dr/detalhe/decreto-lei/15-2022-177634016>
- Programme on support for the implementation of RECs and collective self-consumption financed through the Recovery and Resilience Plan, available at: <https://www.fundoambiental.pt/apoios-prr/c13-eficiencia-energetica-em-edificios/c13-i01-02-03-apoio-a-concretizacao-de-comunidades-de-energia-renovavel-e-autoconsumo-coletivo.aspx>