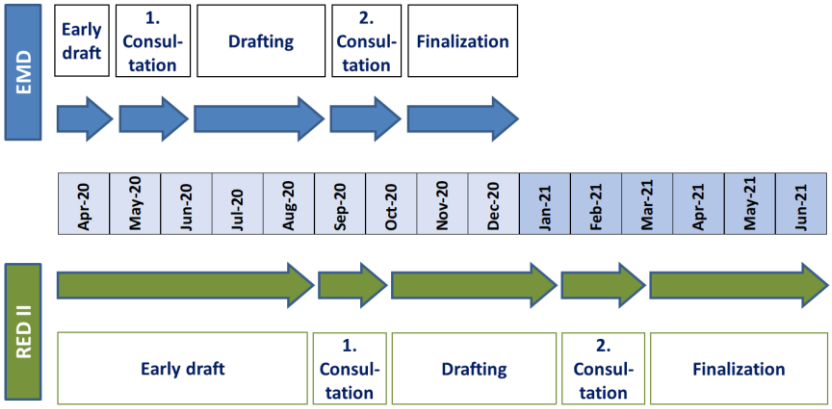
Transposition Guidance for citizen energy policies

Recommendations to strengthen prosumers and energy communities when transposing the Clean Energy Package (RED II, EMD)

Objective: This paper aims to inform and facilitate the transposition and the implementation of the Renewable Energy Directive (RED II, 2018/2001) and the Electricity Market Directive (EMD, 2019/944) in combination with the Governance Regulation (GR, 2018/1999). It focuses specifically on the provisions regarding the newly established rights of citizens like self-consumption and energy communities. It provides recommendations to be applied when drafting national legislation and regulation; it addresses both policy makers and civil society advocacy groups.

The transposition of the RED and the EMD into national laws will provide opportunities to influence national policies towards a prosumer-centred Energy Union and strengthen citizens' rights. Most important is, however, that it needs to be ensured that national legislations match the Paris Agreement in its ambition, and that they are rigorously implemented and enforced over the next years. For both, implementation and enforcement, citizen engagement will be a crucial.

Transposition Timeline: Ideally, civil society representatives are already involved in the drafting process. We recommend a two-stage consultation process so that stakeholders are involved early on when all options are still available (1st consultation) and then when a more elaborate draft is available (2nd consultation). It is proposed to have parallel stakeholder consultations in September/ October 2020 for both directives as decisions on the EMD transposition may impact the RED II transposition – especially since provisions on Citizen Energy Communities (defined in the EMD) are linked to the definition of Renewable Energy Communities (defined in the RED II), see Figure below.



Recommended transposition timelines for EMD and RED II with two-stage consultation

These timelines are proposed according to the principles of the Aarhus convention and Regulation 1367/2006.

The following table provides guiding answers to typical questions arising during the transposition process. It is important to get clarification early-on in the process, i.e. by summer 2020.

Note: *We use the term "**prosumer**" for all kind forms of citizens active in the (renewable) energy field including but not limited to individual and shared self-consumption, energy sharing, generation or as members of RECs or CECs.*

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Citizen Energy Communities (CECs) and Renewable Energy Communities (RECs): How should they be defined in national legislation? (RED 2.16, EMD 2.11)	Ideally CECs and RECs are **combined in one type of Energy Community** to avoid confusion and to make it easier to explain. For instances any REC that deals with electricity would automatically be a CEC. In case the two concepts are kept, their **definitions and relation should be coherent**. Most important is that control by citizens is secured. Engagement of CECs in fossil fuel related activities should not be allowed. Existing energy communities – like energy cooperatives – should be allowed to **continue in their present form** unless their statutes or activities are clearly in contradiction to the spirit of the REDII/EMD provisions. However, they may have to adapt to the stringent conditions for energy communities and in order to be considered as such. The legislation should make a clear distinction between the actor (the energy community) and the activities a community is allowed to lead. For instance, collective self-consumption must be possible without the need to establish a REC or CEC; and RECs/CECs can do more than collective self-consumption.
Local area: What does it mean? (RED 2.16, EMD 2.11)	It is suggested to **contextualise** the term "local", adapting it to what is nationally appropriate. For instance, large projects like a community owned wind park may require (financial and organisational) participation beyond a single municipality. However, it must be ensured that persons or companies that have their main residence or seat outside the municipality or province do not gain control within the REC/CEC. For collective self-consumption and district heating networks would be based on **technical criteria** where participants are connected to the same local (distribution) network. In buildings, the rights should pertain to those living in the building. Cooperative energy suppliers, like Som Energia in Spain with thousands of member across the country, are more a virtual community which could fall under the concept of CEC. They, too, would be required to ensure participation and control of local residents in new energy projects.
Barriers and potentials for RECs: How should they be assessed? (RED 22.3)	National governments are required by the RED to assess barriers and potential of Community Energy in their territories. **This should take place as soon as possible, ideally by summer 2020**. Without having a clear picture of the barriers, it will be difficult to define the appropriate measures and to design an adequate enabling framework. Ideally this exercise is extended to all forms of prosumerism. The potentials and opportunities should include aspects beyond the energy sector, e.g. impact on jobs, climate change mitigation, local economy, and other benefits that RECs (and also CECs) can provide. The assessment studies should also clearly define through which concrete legislative or regulatory measures the barriers will be addressed and potentials be exploited. This includes setting of binding targets. These recommendations shall be implemented within the transposition deadlines.
Enabling framework for energy communities: How should it look like? How should RECs be promoted, also compared to other forms of commercial projects or organisations?	Each national enabling framework needs to be based on the barriers and potentials identified. **Key elements** of an enabling framework would be • Clear definitions • Targets and trajectories • Support schemes that are specifically designed for RECS • Preferential grid access for RECS • Lean administrative procedures, e.g. single-point of contact for advice for projects throughout their development process, reduced licencing requirements, etc. • Responsibilities, governance and monitoring The exemptions of state aid guidelines allowing for support other than tendering for projects below 18 MW should be made use of. In case auctions are applied, these should contain reserved capacities for RECs of at least 10%. RECs may **bid as cleared**

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(RED 22.4, 22.7; GR 20.b.7)	if they are willing to accept the clearing price. This way they don't have to worry on underbidding. However, **ideally RECs would get specific tariffs** for energy produced which could be set slightly higher than market prices (FiT, FiP, or other forms) to reward value provided to the local economy.
Enabling framework for renewables self-consumers: What are the crucial points? (RED 21.6, 21.2.d)	This enabling framework would have basically the same elements as the one for energy communities; they may even be defined together to be fully coherent. Economic viability for self-consumption projects needs to be ensured: There should be a decent remuneration for excess-energy which may need to be above market prices in order to make these projects bankable and allowing pay-back times of around 10 years. The rate design requires sufficiently high variable parts of the retail tariffs so that self-consumption is made a viable option. Energy sharing or shared self-consumption should be easy enough so that prosumers are incentivised to **make full use of their rooftops**. There may be discounts on grid charges given. While a contribution to systems costs through a reasonable connection charge, energy fed into the grid should not be charged to the generator – it must always be the goal to generate as much renewable energy as possible. Income taxes may be waived if revenues from energy generation stay below a certain amount. Other investment support schemes should be assessed.
New vs. adapting existing legislation: What is appropriate?	**Amendments** can be appropriate in case there are dedicated laws related to RE which cover most RE-relevant aspects (like the German EEG); prosumer-related topics will nevertheless require dedicated chapter(s) to elaborate the concepts and define supporting measures. In other cases, **new laws and regulations** dedicated specifically to RECs/CECs and prosumers may be more adequate. There should be cross-referencing to other laws, e.g. the ones that deal with forms of legal entities, to be fully coherent. Laws approved by parliament are preferable to allow for more support and stability.
Targets: How should they be set? (Governance Regulation EC 2018/1999, Art. 20.a.5)	There should be **binding targets** expressed in MW and/or GWh for all types of prosumer projects, i.e. individual and collective self-consumption, generation as well as RECs and CECs. These targets should be binding and enshrined in law (e.g. a national Energy and Climate Law). **Rooftop PV is a good indicator** for local citizen engagement; moreover, for environmental reasons rooftop PV should be exploited to a maximum. A roof-top PV target should be defined at least up to 2030 and broken down in an annual trajectory. This target should be tracked in the following categories: • Individual self-consumption and exports to the grid • Collective self-consumption and exports to the grid, ideally a) within buildings and b) through the distribution/transmission grid • Projects built by RECs & CECs incl. self-consumption and export The **rooftop PV target should be about 50% of the total identified potential** (for potentials by MS, see EC JRC 2019; this study found that "*EU rooftops could potentially produce 680 TWh of solar electricity annually*"). MS should provide easily accessible online tools to identify suitable roofs and other already built infrastructure that could be used for PV/RES generation. Large and small RE projects initiated by RECs and CECs should have a specific target, defined as a share of total national RE target, e.g. 30-50%. The share of households being members of energy community should be at least 5% by 2030.
Monitoring of RECs/CECs and prosumption:	There should be a **clearly identifiable label** for CECs and RECs so that they can be registered and their numbers and development can be recorded in statistics.

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How should their development be tracked? (GR Annex 1, part of NECP)	This means they must be distinguishable from other forms of collaboration such as pure collective self-consumption, or other legal forms that don't comply with the REC/CEC criteria. CECs/RECs should have to **register** officially (e.g. by using existing processes like the ones of FCA in UK where cooperatives register). Their activities should be monitored to identify potential misuse of the concept. The number of involved citizens or households should be monitored, too. Their activities should be collected, and especially RE production measured (see also targets below). Individual and collective self-consumption projects should also be monitored to track their uptake.
Implementation: How to ensure that targets are achieved?	The actual implementation and the achievement of targets and measures should be monitored and published on an annual basis. Targets and measures should be **broken down to regions and municipalities** because the actual implementation lies often at the local level (permitting, etc.). Each administrative level should become energy accountable, at least to a certain degree, which may require a shift in energy competencies towards the local/regional level. All levels should track, report and benchmark their numbers annually (e.g. through Covenant of Mayors). National statistics offices need to be enabled to track the numbers easily. The EC should ensure that numbers are comparable across all MS. In case targets are not met, corrective actions shall be taken involving citizens.
Energy sharing: How should it be defined? (RED 21.4)	Energy sharing and self-consumption should be allowed – as foreseen by the RED – **beyond a building or premise**, i.e. it should be possible through the distribution grid, ideally over distances of several kilometres (France allows 2km, Spain only 500m). It should be possible to organise energy sharing as shared self-consumption but not necessarily; other options should be possible (like peer-to-peer trading etc.). Market developments in this regard should be closely monitored and legal adjustments made in case that there is no uptake, or there are negative side effects (e.g. social distortions). For shared self-consumption **in multi-family buildings, there should be straight-forward regulation** and guidance in place that allow swift agreements among flat-owners and/or tenants. There may be special incentives for building owners to make self-consumption available to tenants. Energy sharing should be made possible without complicated administrative procedures or cumbersome contracts between participants.
Operation of distribution grids / aggregation: What role should RECs/ CECs be able to play? (EMD 2.11c, 16.4)	RECs/CECs should have the **right to operate local grids**, either alone or in cooperation with local utilities. They should have the possibility and be enabled to bid in concession processes where these exist (e.g. in Germany). Where distribution grids are privatized like in Spain, regulatory reforms should be undertaken to re-municipalise local grids or to give them into the hands of RECs/CECs if this is in the interested of the local population. Investments in grids should take a holistic view working towards a 100% renewable energy system across all sectors.
Support to public authorities: What would they need to enable RECs? (RED 22.4.h)	There should be **dedicated national funds** which are given to local / regional governments, energy communities or NGOs so that these can build up capacity in energy matters. This includes especially the creation of **local or regional energy agencies** which should develop and finance municipal-led RE projects (which can also provide energy to low-income households), conduct awareness raising campaigns, offer trainings for local installers, support energy communities and prosumers, offer energy audits, etc. It is also import to create a legislative enabling framework which allows local governments to participate in RECs.
Lean administrative procedures: How	A **one-stop-shop concept** should be defined, i.e. for each citizen or REC/CEC there must be a clearly identifiable organisation that gives support to local individual and community projects and accompanies them through the entire process of planning, permitting, applying for support, etc. Regional or national energy agencies may be an

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to address accessibility? (RED 21.6.a/c)	option; other options include tendering for a civil society organisation to provide these services. For certain member states one stop shops on the national level may make the most sense; for larger or more federally constituted member states (such as DE, ES or BE) regional ones may be more appropriate. In any case should be always a single **national contact point** for issues that need to be decided nationally (e.g. the national energy agency). This includes forms and templates, guidance, legal and regulatory issues, etc. Simplified licence procedures required for REC-led RE projects should be developed with/by the regulator.
Vulnerable and low-income households: How to ensure that they have access to self-consumption schemes? (RED 21.6.a)	Criteria for vulnerable and low-income households should be clearly defined so that they can easily apply for support in joint self-consumption schemes. Municipalities should offer pro-actively to these households that they can **participate without upfront costs in municipal projects** (e.g. PV installations on schools). These households should also receive free energy advise which would cover energy efficiency measures.
Public consultation and governance: How to ensure that citizens' opinions are considered?	There should be guidelines on how **citizens and energy communities should be represented and heard** during all phases of the transposition and within the governance frame of the implementation. For instance, associations (like RESCooop) should be identified and invited; however, small, non-organised stakeholders like NGOs, individual prosumers or social actors should be represented as well. It has to be ensured that different interests are well represented.
Information and awareness-raising activities: How should this be regulated?	There should be a number of awareness raising campaigns by national government in coordination with regional and local governments on prosumer opportunities and procedures. These actions need to be **repeated on a regular basis** (several times per year). Through surveys the awareness should be measured.

Another paper on "prosumer policy options" can be found on the PROSEU website. A more detailed guidance document elaborated by REScoop and Client Earth is forthcoming in June 2020.

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PROSEU

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COMMUNITY POWER

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