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LOCAL ENERGY COMMUNITIESAS A FORMULA FOR OVERCOMING SPATIAL INEQUALITIES IN RELATION TO SUSTAINABLE DEVELOPMENT ON URBAN ENERGY

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INTRODUCTION

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Local Energy Communities are mechanisms that incorporate citizens as transformative elements of the electricity system, with the aim of facilitating the energy transition. In fact, citizen participation is considered a central and key pillar in the development of energy communities. European electricity market regulations have incorporated the concepts of "active consumers" and self-consumption, in their various forms, fostering their integration into the market. Despite the regulatory impetus provided by European Union regulations and some national regulations, a complete legal regime is not established to resolve all questions regarding its functioning.

The aim of research A minimum framework is established in European regulations, and freedom of choice of the legal form of the resulting community is left unresolved. As a result, the diversity of situations that arise in practice cannot always be resolved based on fully defined regulations that provide legal certainty to this figure. The legal regime needs to be outlined, being the aim of this work to determine the principle lines of every kind of Local Energy Communities .

Objectives The objectives of this work is to analyze the main features of the two types of Local Energy Communities, which are: renewable energy communities and citizen energy communities, providing their essential characteristics, that will permit establishing a legal regime for them.

The methods of the research The method of this research are the ones of the legal scientific method that lies on the analyses of the existing regulations on the matter, and the main literature and case law which had lead preliminary studies on this issue.

Theoretical background

Main regulation on Local Energy Communities in the European Unión can be found on Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources, and Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market in electricity.

In Spain, additional consideration may be given to Spanish Act 7/2021, of 20 May, on climate change and energy transition, and the National Integrated Energy and Climate Plan 2021-2030, included in the Spanish Act 24/2013, of 26 December, on the Electricity Sector, following the amending introduced by Spanish Royal Decree-Law 23/2020, of 23 June.

Despite the regulatory impetus provided by European Union regulations and the support derived from Spanish Act 7/2021, of May 20, on climate change and energy transition, and the National Integrated Energy and Climate Plan 2021-2030, a complete legal regime is not established to resolve all questions regarding its functioning.

Main findings

Renewable Energy Communities (RECs)

Definition: RECs are legal entities based on open and voluntary participation. Their primary goal is to provide environmental, economic, or social benefits to their members or the local areas where they operate, rather than financial profits.
Activities: They can produce, consume, and even supply renewable electricity, as well as offer aggregation services or other commercial energy services, always in accordance with applicable regulations.
Scope: The operational scope of RECs covers the production and consumption of any type of renewable energy, not just electricity.
Membership: Members are typically individuals, small and medium-sized enterprises (SMEs), and local authorities.
Proximity: Members of an REC are usually located in the vicinity of the renewable energy projects owned by that legal entity.
Autonomy: RECs are autonomous entities.
Ownership: They must own at least part of the generation facilities.
Key characteristics and benefits often associated with RECs: Citizen Empowerment, profits and benefits tend to stay within the community, fostering local economic development, they promote the use of clean and renewable energy sources, they can contribute to greater energy self-sufficiency at a local level, and they can strengthen community bonds through shared projects and goals.

Citizen Energy Communities (CECs)

Definition: CECs are legal entities that aim to provide environmental, economic, or social benefits to their members or the local areas where they operate, rather than primarily focusing on financial profits. Participation is open to all and voluntary.
Activities: CECs can participate in the generation of electricity (not just renewable, but potentially other types as well, although the focus is often on cleaner energy). Importantly, they can also be involved in distribution, energy storage, energy efficiency services, and the provision of recharging services for electric vehicles. This broader scope of activities distinguishes them from RECs.
Scope: Unlike RECs, the operational scope of CECs isn't limited to renewable energy production and consumption. They can engage in a wider range of energy-related activities.
Membership: Any entity can participate in a CEC, including large companies, although effective control must be exercised by members or shareholders who are natural persons, local authorities (including municipalities), or small enterprises. This allows for a more diverse membership compared to RECs.
Proximity: CECs have no geographical limitations regarding the location of their members or activities. This is a significant difference from RECs, which typically require a certain proximity between members and projects.
Autonomy: While the table indicates that autonomy is not explicitly required, the underlying principle of citizen-led initiatives suggests a degree of self-governance.
Ownership: There is no requirement for CECs to own the generation facilities. This allows them to participate in energy projects in various ways, not just as owners.
Key aspects and potential advantages of Citizen Energy Communities: Their ability to engage in a broader range of energy activities allows for more comprehensive local energy solutions, the inclusion of larger entities (under the control of local actors) can bring more resources and expertise to community energy projects, the lack of geographical restrictions allows for the development of energy initiatives that span wider areas, the broader scope can foster more innovative approaches to local energy management, including storage and electric vehicle infrastructure.

MAIN RESULTS AND CONCLUSIONS

Local Energy Communities of the two kinds are important tools for advancing the energy transition and empowering local communities. In view of the existing regulations on Local Energy Communities, there is a clear need to develop a more comprehensive legal framework for the two types referred to in the regulations.- Currently, a Draft Royal Decree is being processed to develop the concepts of Renewable Energy Communities and Citizen Energy Communities, of April 20, 2023, which does not define the specific legal framework. In this regard, the Regulatory Impact Analysis Report of this draft recognizes that "A flexible approach has been chosen regarding the legal form that these communities can adopt, as opposed to limiting themselves to certain legal forms, with the intention of allowing for different configurations and adapting to the various situations that may arise. All of this, provided that the legal form chosen ensures compliance with the established requirements and meets the purpose of this new entity." This flexibility can bring advantages, but also legal disadvantages resulting from a lack of legal certainty in some matters. When it would arise disputes, Local Energy Communities must resolve by applying the regime corresponding to the legal forms adopted, with the necessary analogous application in relation to the most innovative aspects of Local Energy Communities. More detailed regulations are needed, and right now the specific legal frameworks and support mechanisms for them are evolving. This future legal evolution is key to enhance their role for achieving more sustainable regional development.