



LAW
ENVIRONMENT AND
DEVELOPMENT
JOURNAL

LEAD

HOW GREECE UNDERMINED THE IDEA OF RENEWABLE ENERGY COMMUNITIES:
AN OVERVIEW OF THE RELEVANT LEGISLATION

Marula Tsagkari

COMMENT



VOLUME
17/1

LEAD Journal (Law, Environment and Development Journal)
is a peer-reviewed academic publication based in New Delhi and London and jointly managed by the
Law, Environment and Development Centre of SOAS University of London
and the International Environmental Law Research Centre (IELRC).
LEAD is published at www.lead-journal.org
info@lead-journal.org
ISSN 1746-5893

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This advance version of the document can be cited as
Marula Tsagkari, 'How Greece Undermined the Idea of Renewable Energy Communities:
An Overview of the Relevant Legislation',
17/1 *Law, Environment and Development Journal* (2020), p. 85,
available at <http://www.lead-journal.org/content/c1701.pdf>
DOI: <https://doi.org/10.25501/SOAS.00035067>

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1

INTRODUCTION

The energy sector is undergoing an important transformation under the pressure of climate change which renders the transition to clean forms of energy urgent. Through the idea of energy communities (EC), citizens, businesses, and local governments can become actively involved in the process of energy transition. At the same time, the idea of ECs has not only gained ground as an important driver towards energy transition but also as an alternative to the centralized energy system that can foster energy democracy. The ECs can identify local needs and bring together the local population to achieve common goals, such as self-sufficiency and self-determination, and increase public acceptability of RES installations. Additionally, various side benefits for the communities have been highlighted in the literature, such as employment opportunities, an increase in environmental awareness, and the opening of new businesses.¹ ECs have boomed in Europe in the past few years following the EU Directive 2008/2001 and 2019/944, especially in Germany, the Netherlands, UK and, Denmark, where

the regulations have favoured ECs.² Yet they are still underdeveloped in Southern Europe, where the pertinent model is focused on big investments on large scale RES.³ Generally, the importance of an adequate framework that can promote energy communities has been discussed broadly in the literature.⁴

In 2018, Greece adopted an innovative regulation in an effort to promote energy communities and to achieve decentralization. Despite the initial efforts, private investors took advantage of the Greek legislation and the available funds forming part of energy communities. There is little evidence that the country is actually moving towards energy decentralization and democratization.

1 Pablo del Río, Mercedes Burguillo, 'Assessing the Impact of Renewable Energy Deployment on Local Sustainability: Towards a Theoretical Framework' (2008) 12/5 *Renewable & Sustainable Energy Review* 1325–44; Gabriella Dóci, Eleftheria Vasileiadou and Arthur C Petersen, 'Exploring the Transition Potential of Renewable Energy Communities' (2015) 66 *Futures* 85–95; Valeriya Azarova and others, 'Designing Local Renewable Energy Communities to Increase Social Acceptance: Evidence From a Choice Experiment in Austria, Germany, Italy, and Switzerland' (2019) 132 *Energy Policy* 1176–83; Jurgen Deutsche and others, 'Energie-Autarkie und Energie-Autonomie in Theorie und Praxis' (2015) 15 *Zeitschrift Für Energiewirtschaft* 151–62.

2 Marieke Oteman, Mark Wiering, Jan-Kees Helderman, 'The Institutional Space of Community Initiatives for Renewable Energy: A Comparative Case Study of the Netherlands, Germany and Denmark' (2014) 4 *Art No. 11 Energy, Sustainability and Society* <<https://energysustainsoc.biomedcentral.com/track/pdf/10.1186/2192-0567-4-11>>; J Dubois and others, 'Safety Cost of a Large Scale Hydrogen System for Photovoltaic Energy Regulation' (2013) 38(19) *International Journal of Hydrogen Energy* 8108–16; Gill Segyfang and Alex Haxeltine, 'Grassroots Innovations: Exploring the Role of Community-based Initiatives in Governing Sustainable Energy Transitions' (2012) 30 *Environment and Planning C: Government and Policy* 381–400; Henk-Jan Kooij and others, 'Between Grassroots and Treetops: Community Power and Institutional Dependence in the Renewable Energy Sector in Denmark, Sweden and the Netherlands' (2018) 37 *Energy Research Social Science* 52–64.

3 Giorgio Osti, 'The Uncertain Games of Energy Transition in the Island of Sardinia (Italy)' (2018) 205 *Journal of Cleaner Production* 681–9.

4 Campos Inês and others, 'Regulatory Challenges and Opportunities for Collective Renewable Energy Prosumers in the EU' (2020) 138/111212 *Energy Policy* <<https://www.sciencedirect.com/science/article/pii/S0301421519307943/pdf?md5=d2fc83801bdab3246f98152a7de826ff&pid=1-s2.0-S0301421519307943-main.pdf>>; J Lowitzsch, CE Hoicka and FJ van Tulder, 'Renewable Energy Communities under the 2019 European Clean Energy Package – Governance Model for the Energy Clusters of the Future?' (2020) 122/109489 *Renewable and Sustainable Energy Reviews* <<https://www.sciencedirect.com/science/article/pii/S1364032119306975/pdf?md5=2faf2cd5047b2a8f9b966536ced2965f&pid=1-s2.0-S1364032119306975-main.pdf>>.

Since 2018 and this innovative law which, however, brought little results, the legislation has advanced and the idea of energy communities has been undermined and substituted by the idea of ‘local energy’ projects that can promote big investments and hinder growth. In these projects various public, private, and third sector actors can participate in a combined management model. This is currently observed in cases like Tilos⁵ and Fournoi.⁶ Additionally, of the 374 registered Energy Communities (EKOIN) that emerged after the introduction of the law 4513/2018, the majority are still struggling at the various stages of licensing and only 35 are currently active. Of those, only 20 are organized by municipalities while the rest are private. A similar trend was also observed recently in the UK, where a significant change in the pathways of energy transition is expected as ECs are being substituted by local energy projects.⁷

There is still no comprehensive research on the Greek legislation regarding energy cooperatives and communities, and most importantly on how the Greek regulation moved from a supportive framework for energy communities to a new focus on ‘local energy’ with strong participation from private companies and local authorities.

2 COUNTRY PROFILE

Greece is a country with high renewable energy potential, but it has traditionally been heavily dependent

on lignite and oil.⁸ Since the liberalization of the energy market with the Directive 96/92/EC through Law 2773/1999, Greece has adopted a number of regulations in an effort to modernize the environmental regulation in line with the European Directives, focusing especially on the promotion of RES. However, the relevant regulation has repetitively been criticized as complex, bureaucratic, and inconsistent.⁹ The example of EC presented in this paper further stresses this inconsistency and instability. Despite this, Greece has taken significant steps to promote renewable energy development. The share of RES in the energy mix has increased from 6.9 per cent in 2004 to 18 per cent in the last few years, which was also the European target for the country. Solar and wind followed by large scale hydro have been the main renewable energy investments.¹⁰

3 RELEVANT LEGISLATION

3.1 Law 4513/2018 on Energy Communities and Other Provisions

The law was introduced in 2018 by the Ministry of Environment and Energy in an effort to deal with the increased energy poverty and to strengthen the social economy and innovation in the country. The law uses the terminology ‘energy community’ instead of ‘energy cooperative’, in line with the European directives on

5 Gilles Notton and others, Tilos, The First Autonomous Renewable Green Island in Mediterranean: A Horizon 2020 (15th International Conference on Electrical Machines, Drives and Power Systems 2017) 102–5.

6 M Bertsiou and others, ‘Water Management and Electricity Output of a Hybrid Renewable Energy System (HRES) in Fournoi Island in Aegean Sea’ (2018) 118 *Renewable Energy* 790–8.

7 Patrick Devine-Wright, ‘Community versus Local Energy in a Context of Climate Emergency’ (2019) 4 *Natural Energy* 894–6.

8 Marula Tsagakari, ‘Energy Governance in Greece’, in M. Knodt, J. Kemmerzell (eds), *Handbook of Energy Governance in Europe* (Springer, 2020) <https://link.springer.com/content/pdf/10.1007%2F978-3-319-73526-9_12-1.pdf>.

9 *ibid* 15; Antonis Metaxas and Michael Tsinizelis, ‘The Development of Renewable Energy Governance in Greece. Examples of a Failed (?) Policy’ (2013) 23 *Renewable Energy Governance* 155–68.

10 Eurostat Statistics Explained, *Renewable Energy Statistics* (Eurostat 2020).

renewable energy. In Article 1, energy community is defined as a ‘cooperative solely aiming at promoting social and solidarity-based economy and innovation in the energy sector, addressing energy poverty and promoting energy sustainability, generation, storage, self-consumption, distribution and supply of energy as well as improving end-use energy efficiency at local and regional level’.

Energy communities, according to this law, should undertake some mandatory activities like energy provision services, energy management and storage, use of electric vehicles, and production of raw materials for biomass, among others. Apart from the mandatory activities, the Law 4513/2018 in Article 4 para 2 also includes some optional activities like managing funding programs, raising awareness, and supporting vulnerable groups against energy poverty. Other than the aforementioned mandatory and optional activities stated in paras 1 and 2 of Article 4, no further activity can be exerted by an EC (art. 4.2 L. 4513/2018). This clearly limits the scope of ECs by excluding other activities like agriculture. This provision is in contrast with the nature of cooperatives which (as also stated in cooperative law R. 193/2002) often have a wide range of activities related to the social economy. Additionally, there is a strict divide between profit and non-profit EC, thus failing to acknowledge the broader purpose of energy communities which is to go beyond profit and contribute to the common good of the community. Through this provision, the ECs are seen as investors as they are permitted to allocate all the surpluses as well as the remainder after dissolution/liquidation.¹¹

A unique innovation of this legislation was allowing the participation of local authorities, which was forbidden or contested in the previous relevant laws. With the Law 4513/2018, the involvement of local

authorities is not only allowed but also encouraged. In Article 2 it is stated that local authorities can form or join an EC. The empowerment of the local authorities is a significant improvement as they can provide capacity and funding. However, in some cases, in order to facilitate the participation of local authorities, the law allows for the lowest possible membership, especially in less populated island regions of the country. In some cases, only three members, two of which can be local authorities, can form an energy cooperative (EC. Art. 2 para 2 L. 4513/2018). This, along with the restrictions in the membership, poses significant questions regarding the opportunities for participation of local communities as well as the open door principle according to which ‘cooperatives are voluntary organisations, open to all persons able to use their services and willing to accept the responsibilities of membership, without gender, social, racial, political or religious discrimination’.¹²

3.2 Government Gazette Â/940/20.3.2020

The regulation Â/940/20.3.2020 focuses on the promotion of renewable energy in the lignite dependent areas in an effort to boost the energy transition. In particular, the regulations of ministerial decisions aimed at resolving the delays observed in the previous years in the licensing process of new power plants as well as the upgrade of electricity networks in order to facilitate the connection of new power plants. However, it also included a number of ambiguous regulations regarding energy communities.

Article 2 distinguishes the categories of power plants from RES, which will be classified into five groups, and based on this categorization the applications of the project bodies will be examined and the final connection offers will be granted. In this context, the

11 Ifigenia Douvitsa, ‘The New Law on Energy Communities in Greece’ (2019) 40 *Cooperativismo e Economía Social* 31–58.

12 International Cooperative Alliance, ‘Cooperative Identity, Values & Principles’ (COOP) <<https://www.ica.coop/en/cooperatives/cooperative-identity>>.

priority that was previously given to applications submitted by ECs is being significantly reduced to one month. Only an EC in which the Local Government Organizations participate, profits are not distributed, and more than 60 members participate are still eligible for 4 months priority in the licensing procedure. A possible retroactive application of the law can have a big negative impact on the already submitted application. This approach can also be incompatible with the EU Energy Policy, as the European Commission has repeatedly criticized the application of retroactive measures and their effect on the RES development (in the Directive 2009/28/EC and the relevant Position Paper).

3.3 Regulation 4685/2020

The controversial law 4685/2020 titled ‘Modernization of Environmental Legislation’ was adopted by the Greek parliament in May 2020, during the global lockdown due to the COVID-19 pandemic. Among other provisions, the law has been accused to hinder the achievements of the previous law on energy cooperatives and small producers while promoting large scale investments. More concretely, the law simplifies the process for large producers of renewable energy sources but not the development prospects of small producers and energy communities. For instance, Article 17 states that the obligation to pay an environmental fee is reduced by half for ‘institutions, as well as legal entities, public or private law for public benefit purposes, except for energy communities, such as hospitals, health centres, and schools of all levels’. At the same time, specific milestones are set from the moment the certificate is awarded until the project is complete. So, although now the right to produce energy can be obtained ‘faster’, it is also possible to lose it if the project is not ready on time. The priority in the licensing process, introduced by Law 4513/2018, is only maintained for those energy communities in which the Local Government Organizations participate, profits are not distributed and those that have more than 60 members. This will put extreme pressure on those energy communities that have more complicated decision-making mechanisms through assemblies and more difficult access to funding and fund release through processes that are time-consuming.

4 CONCLUDING REMARKS

From the above analysis, it is evident that the new regulatory packages in Greece will have an important impact on the renewable energy communities and the energy transition path. Despite the initial positive steps taken by the laws preceding and including Law 4513/2018, there is currently an inverse trend that undermines energy communities. In Table 1 we present an overview of the related legislations and the main provisions regarding ECs. The recent regulations are mostly driven by the need to promote big investments, with the participation of various players like private companies and municipalities that will reduce investment risks and hinder growth. At the same time, the importance of energy communities, which can represent the interests of the local population and have a significant positive impact, is not being acknowledged. Of course, the removal of unjustified administrative and bureaucratic barriers in the Greek regulation was more than welcome, but with an understanding of the different ways in which energy communities organize and operate and the inherent challenges they face, that call for a special regulation in the first place. One can expect more ‘local energy projects’ to appear in the coming years. However, these projects not only often fail to represent the needs and aspirations of the local society but are also short-lived.¹³ This new regulation will undoubtedly have detrimental effects on energy communities which remains to be seen.

¹³ Devine-Wright (n 7) 895.

LAW		PROVISIONS REGARDING ENERGY COMMUNITIES
Law 3852/2010	New Architecture of Local Government and Decentralized Administration	More administrative power was given to the local authorities.
Law 3851/2010	Accelerating the development of Renewable Energy Sources to deal with climate change and other regulations addressing issues under the authority of the Ministry of Environment, Energy and Climate Change	Special credit for household consumers within the administrative borders of the municipal or community district in which the R.E.S stations are installed.
Law 4430/2016	Social & Solidarity Economy	RES treated as social cooperative enterprises and thus, were exempted from the rules of the antagonism, along with prioritizing administrative preferences and having to pay smaller guarantees.
Law 4513/2018	Energy Communities and other provisions	Sets the main regulatory framework for ECs, including benefits like a priority in the licencing process, special remuneration and allows the participation of the local authorities, citizens, and private companies.
B/940/20.3.2020	Modernization of Environmental Legislation	Limits the priority given to applications submitted by ECs and a fixed remuneration scheme is applied.

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