



PROMOTING THE ENERGY TRANSITION THROUGH PRIVATE-LAW RESEARCH

Energy communities are normal people who jointly generate renewable energy, thereby boosting the energy transition. Private law permeates everything they do. The project 'Private Law and the Energy Commons' at UniTo identifies private-law obstacles to these communities and how to remove them.

Private law is everywhere. It determines our rights and obligations when we buy fresh pasta at a store or play football as member of an association. Private law is also in the middle of the greatest challenge humanity has ever faced, the fight against global warming and the transition from fossil fuels to renewable energy sources. For instance, private law governs how we buy and finance solar panels on the roof of our or somebody else's house.

In 2022 I have embarked on an EU-funded project on private law and energy communities ('Private Law and the Energy Commons') at the University of Turin. The goal of this project is to investigate whether private law gives these communities enough space to flourish and to regulate their own affairs.

Energy communities are groups of citizens who together produce electricity or heat from renewable sources. For instance, they buy solar panels together, put them on the roofs in their neighbourhood, and distribute the energy among their members. In this way, they fuel the transition to sustainable energy sources. There is a broad variety of these groups, with different degrees of involvement from businesses and public bodies. For this reason, each community is different, and each creates their own organisations with their own rules. Each community has different rules on private-law matters: who can become member, who can enjoy the electricity or heat, and who receives the revenues from producing the renewable energy?

A RESEARCH TALE BY



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POSTED ON

05 September 2022



In the next two years, I am doing empirical research on the rules that energy communities create and apply to private-law issues, such as membership and the distribution of revenues. To check whether private law poses an obstacle, I investigate whether these self-made rules stick to, or break, the rules of state private law, with a focus on Germany and Italy. Where the self-made rules break the state private law of one country, I try to find a solution, possibly from the respective other country, that accommodates both the energy communities and the interests protected by that rule of state private law.

Although I only started a few months ago, there are already a few examples of where state private law makes the life of energy communities harder. For example, new EU Directives (2019/944 and 2018/2001) provide definitions of energy communities and give many valuable rights to the communities that fall under these definitions, in particular access to the energy market. In order to qualify, communities need to be open, but big businesses may not participate. Control of the communities must be in the hands of people in the vicinity of the renewable energy installation. These requirements are vague. Does 'open' mean that energy communities may not charge a contribution when somebody wants to become a member? Does this definition exclude people who live 50 km away from the solar panels of the energy community from becoming board members?

As Directives have to be transposed into national law, much will depend on how EU Member States, such as Germany and Italy, concretise these requirements. The danger is that the Member States will be too strict and exclude too many energy communities from the benefits of the Directives. Then, the energy communities may be unjustifiably limited in their self-determination and -regulation. My project will signal such developments and make suggestions on how to prevent that danger from materialising itself.

Private law permeates every activity and every discussion of the energy community, if they are aware of it or not. The devil is often in the details that nobody keeps an eye on. By mapping private-law obstacles to the flourishing of energy communities and providing alternative solutions, I hope to make the life of energy communities easier and to contribute to a successful energy transition.