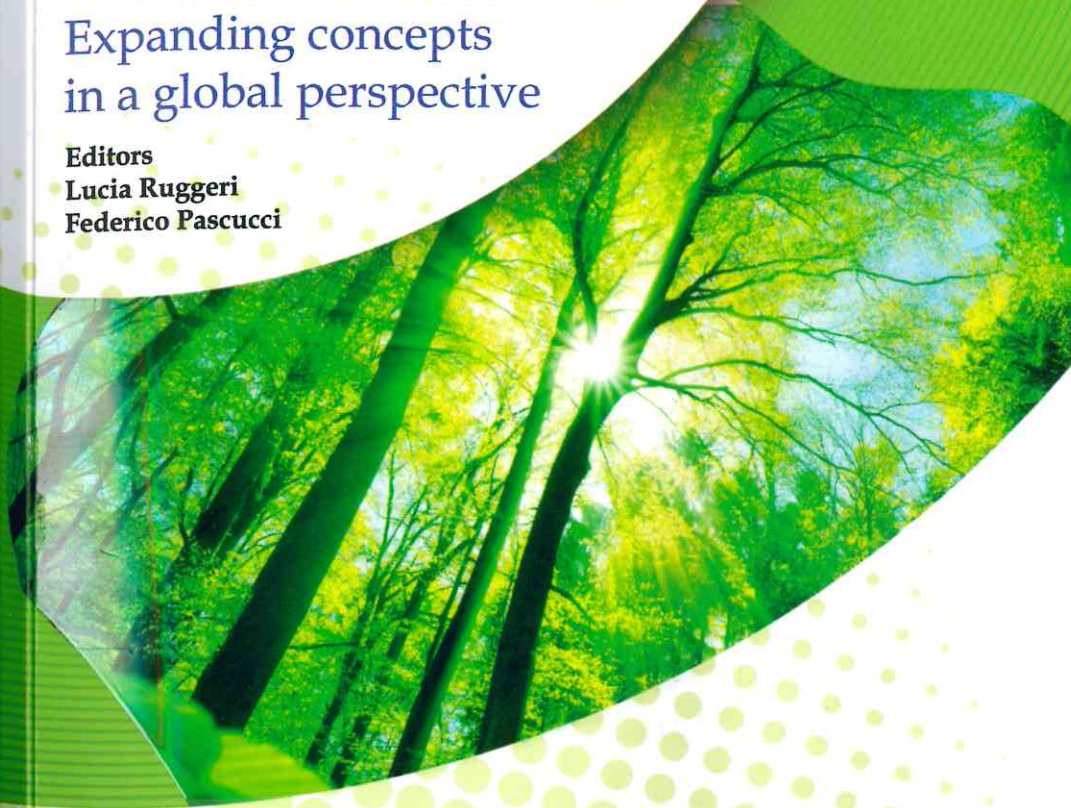


# PROSUMERISM AND ENERGY COMMUNITIES

Expanding concepts  
in a global perspective

Editors  
Lucia Ruggeri  
Federico Pascucci

PROSUMERISM AND ENERGY COMMUNITIES  
Expanding concepts in a global perspective



**ecpe**  
enabling consumer  
to become prosumer  
in the energy transition era

2022  
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**PROSUMERISM AND ENERGY  
COMMUNITIES EXPANDING CONCEPTS  
IN A GLOBAL PERSPECTIVE**

Eds

Lucia Ruggeri and Federico Pascucci



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### ***Foreword***

This is the second book that sees the light within the ECPE Project. If inside the first volume we focused our attention on the issues concerning barriers and obstacles to the phenomenon of prosumerism and self-production and self-consumption of energy, this book will have as its object of research the various possibilities offered by the energy communities. So the studies will analyze mainly the legal form an energy community could cover inside the national framework, comparing the experiences of different countries both within the European Union, both outside Europe.

The comparison between virtuous experiences of countries that can also be very different from each other, both for legal tradition and contingent needs, could transform this book into an important tool to understand the problems which arise with the birth and the develop of energy communities, their link with the local situations and the advantages that they can bring to the territorial areas in which they operate. All this, however, provided that the communities could receive all the correct means (legal, fiscal, judicial) that will enable them to be the protagonists of that long awaited change in the energy paradigm. A change long awaited indeed, but that still seems far away.

This time also we wanted to remain faithful to the multidisciplinary approach which had yielded such fruitful results in the first book of the ECPE Project, by collecting the essays and surveys of many researchers that offer different perspectives and methodologies to analyze the energy phenomenon and energy communities in particular.

The book is divided into four parts. At the beginning Prof. Lucia Ruggeri enlightens how far European policies have come, how far all energy market's players still have to go in the implementation of sustainable development's values. In the second part are collected essays that analyze the energetic communities and the legal context in which they operate, comparing the Italian experience and those of many other countries, European and not. In the third part are hosted the answers to the questionnaire trying to cover the experiences of those states that do not find their examination in the second part, with an insight to the experiences of the large emerging countries (Cina, India, but also Argentina and United States), where the problem of pollution has become an emergency that can no longer be postponed and therefore the need for decarbonisation and energy transition to clean and renewable sources is more strongly felt. The final part, in continuity with the structure already tested in the first volume, hosts the thoughts of one witness of civil society engaged in the Italian energy transition.

As editors of this work we hope you will appreciate this volume as a useful tool for dealing with problems, but also opportunities, that the energy transition continues to offer for the sustainable development of our society.

Lucia Ruggeri and Federico Pascucci

**Part I**

**How Far We have come, how Far We still have to  
go: how Energy Communities can help  
Prosumerism**

## Just Energy Transition: From Energy Consumer Protection to Energy Consumer Empowerment

Lucia Ruggeri

**Abstract:** The European legal scenario in the field of energy is undergoing a profound and unstoppable change. Europe, with the Green Deal before and with the 'Fit for 55' now, has adopted legislative policies that favour the rapid achievement of the objective of 'climate neutrality'. The energy transition underway, however, risks being not very inclusive and is characterised by a lowering of safeguards. For this reason, it is necessary to analyse to what extent the transformation of the consumer from a mere consumer of energy to a 'prosumer' or 'prosumager' can be accompanied by a different concept of consumer protection based on 'empowerment'. One answer can be the introduction through European Directives 2001/2018 and 944/2019 of new legal categories that focus on energy communities, offering new perspectives for the fight against energy poverty and vulnerability.

**Keywords:** Consumer, Prosumer, Energy Market, Energy community, Contract

### 1 The European Scenario

European energy policies are profoundly influenced by the urgent need to combat climate change,<sup>1</sup> but, more generally, they seem to be deeply rooted in the international principle of 'sustainability'.<sup>2</sup>

The adoption of the Green Deal,<sup>3</sup> which took place immediately before the spread of the COVID 19 pandemic, undoubtedly focused on the need to accelerate and intensify 'decarbonisation' processes, but, since the pandemic, energy has also become a crucial issue to achieve the other objectives of the UN 2030 Agenda,<sup>4</sup> such as the need for responsible consumption and production and the fight against poverty.

At the European level, growing awareness of the extent to which energy is necessary for economic and social development is the basis of the new regulatory

<sup>1</sup> 'EU Action Plan: Towards Zero Pollution for Air, Water and Soil', CO (2021) 400.

<sup>2</sup> F. Capra and U. Mattei, *The Ecology of Law. Toward a Legal System in Tune with Nature and Community* (Oakland: Berrett-Koehler Publishers, 2015); D. French and L. Kotzé, *Sustainable Development Goals - Law, Theory and Implementation* (Cheltenham: Edward Elgar Publishing 2018); E. Caterini, *Sostenibilità e ordinamento civile. Per una riproposizione della questione sociale* (Napoli: Edizioni Scientifiche Italiane, 2018), 96-113; M. Kaltenborn et al, *Sustainable Development Goals and Human Rights* (Berlin: Springer 2020); P. Perlingieri, *Il diritto civile nella legalità costituzionale secondo il sistema italo-europeo delle fonti* (Napoli: Edizioni Scientifiche Italiane, 4<sup>th</sup> ed., 2020), IV, 254-256.

<sup>3</sup> C. D'Orta, 'Green Deal 2030 un progetto per garantire sostenibilità e promuovere un "ambientalismo maturo"' *Comparazione e diritto civile*, 99-148 (2021).

<sup>4</sup> UN General Assembly, 'Transforming Our World: the 2030 Agenda for Sustainable Development', UN Doc A/RES/70/1 (21 October 2015).



package 'Fit for 55',<sup>5</sup> where, not without opposition,<sup>6</sup> an expansion of the taxonomy of renewable sources is envisaged on the one hand, and, on the other, huge investments are planned to favour energy transition in a context characterised by clear signs of a global economic crisis.<sup>7</sup>

## 2 From Consumer to Prosumer: The Impact of Legislative Policies on Consumer Protection

European policies on the energy market have led to a rethink of the notion of consumer,<sup>8</sup> which can no longer be based on the legal definition of the term 'consumer', the consequence of which is that serious and well-founded protection needs can come from legal entities that cannot be subsumed under the legislative definition.<sup>9</sup>

The energy market is one of the markets in which this phenomenon is most developed because it is strongly affected by 'pro-transition' rules, which were adopted quickly and were equally speedily changed in an attempt to rapidly reach the objectives negotiated at international level, such as those agreed in the Paris agreements or in the very recent COP 26.<sup>10</sup> Energy transition requires a paradigm shift in the market, which involves the timely expansion of energy supply and, at the same time, the elimination of fossil-type energy sources. The transition to clean energy, a fundamental objective in the fight against climate change, takes place through the decentralised<sup>11</sup> management of power generation and distribution and requires the active involvement of consumers, whether citizens or professionals.

<sup>5</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 'Stepping up Europe's 2030 climate ambition. Investing in a climate-neutral future for the benefit of our people', COM (2020) 562 final, Brussels, 17 September 2020.

<sup>6</sup> The draft of Complementary Delegated Act amending Delegated Regulation (EU) 2021/2139 as regards economic activities in certain energy sectors and Delegated Regulation (EU) 2021/2178 as regards specific public disclosures for those economic activities includes gas and nuclear activities. The proposed inclusion causes strong critical reactions. For a first analysis see Platform on Sustainable Finance, Response to the Complementary Delegated Act, 21 January 2022, available at [https://ec.europa.eu/info/files/220121-sustainable-finance-platform-response-taxonomy-complementary-delegated-act\\_en](https://ec.europa.eu/info/files/220121-sustainable-finance-platform-response-taxonomy-complementary-delegated-act_en) (last visited 29 January 2022).

<sup>7</sup> S. Galera Rodrigo, 'Changing the Energy Model: Step Back on the Europe 2050 Strategy?' 25 *European Energy and Environmental Law Review*, 65-72 (2016).

<sup>8</sup> M. Giobbi, *Il consumatore energetico nel prisma del nuovo quadro regolatorio italo-eurounitario* (Napoli: Edizioni Scientifiche Italiane, 2021), 42.

<sup>9</sup> L. Ruggeri, 'Consumatore e prosumerismo energetico nel quadro regolatorio europeo' 16 *Actualidad Jurídica Iberoamericana*, 1-15, (2022).

<sup>10</sup> UN Climate Change Conference 2021, Decision -/CP.26, Glasgow Climate Pact, 13 November 2021, available at <https://unfccc.int/documents/310475> (last visited 29 December 2021).

<sup>11</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 'Launching the public consultation process on a new energy market design', COM (2015) 340 final, Brussels, 15 July 2015.

All this is well evidenced by the idea of creating a European Energy Union<sup>12</sup> in which access to energy is conceived as a 'universal service',<sup>13</sup> adequately supported by the States, and in which every consumer can have understandable information on the cost of the energy they consume, but above all they may also have the opportunity to choose whether to become energy producers. In this respect, the European Energy Union<sup>14</sup> is connected with the New Deal for Consumers<sup>15</sup> which resulted in the Omnibus Directive no 2161 of 2019. The latter seeks to standardise and harmonise the consumer protection system through adequate sanctioning tools for practices that can undermine their power and their contractual prerogatives.

Directive 2018/2001 (RED II)<sup>16</sup> on renewable energy sources expressly enables citizens to produce the energy they consume by providing a complete regulatory framework that includes consumption of self-generated electricity, forms of collective self-consumption, and the creation of renewable energy communities (REC).<sup>17</sup> Likewise, Directive 944/2019 (IEM)<sup>18</sup> takes energy self-generation and its storage to heart as tools that make the system flexible and as such are worthy of protection and incentives.

The European legislator clearly identifies<sup>19</sup> the main barriers to electricity self-generation: disproportionate charges for the electricity consumed by the self-producer, obligations to enter self-generated electricity into the system, and subjecting consumers who generate energy to the same obligations as professional suppliers. In this context, Directive 944/2019 favours EU forms of energy supply at affordable prices achieved by creating citizen energy communities (CEC), which, unlike traditional electricity companies, operate on a non-profit basis. Thanks to the use of technologies, energy communities can create intelligent distribution networks and contribute to demand management in an integrated way. The

<sup>12</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 'A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy', COM (2015) 80 final, Brussels, 25 February 2015.

<sup>13</sup> N. E. Hatzimihail, 'SDG 7: Affordable and Clean Energy', in R. Michaels et al eds, *The Private Side of Transforming our World UN Sustainable Development Goals 2030 and the Role of Private International Law* (Cambridge: Intersentia, 2021), 73-78.

<sup>14</sup> The development of the Energy Law in the European Energy Union is analyzed by several experts in S.-L. Penttinen and I. Mersinia eds, *Energy Transitions: Regulatory and Policy Trends highlights the recent developments in EU energy law and underlying policy aspects that shape the regulatory approach to energy* (Cambridge: Intersentia 2017), 1-260. The creation of an Energy Union is a pivotal issue at this moment. For a focus on the role of the Energy Community funded by the countries of South-East Europe see D. Buschle and K. Talus eds, *The Energy Community. A New Energy Governance System* (Intersentia: Cambridge 2015), 1-618.

<sup>15</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 'Delivering a new deal for energy consumers', COM (2015) 339 final, Brussels, 15 December 2015.

<sup>16</sup> 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 (recast) [2018] OJ L328/82 (RED II Directive).

<sup>17</sup> Following Recital 66 of the RED II Directive 'Member States should be allowed to differentiate between individual renewables self-consumers and jointly acting renewables self-consumers due to their different characteristics to the extent that any such differentiation is proportionate and duly justified'.

<sup>18</sup> Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU (recast) [2019] OJ L158/125 (IEM Directive).

<sup>19</sup> Recital 42 of the IEM Directive.

reduction of consumption and tariffs brought about by the implementation of energy communities can be considered a new type of consumer protection.

Consumer protection in the traditional form is constituted by the explanation of rights whose violation is sanctioned by law. By participating in the energy community, the exercise of these rights is strengthened and, in a certain sense, 'anticipated' so as to avoid the infringement of the right and to favour its implementation.

### 3 The Effectiveness of the Rights of Energy Consumers. From Consumer Protection to their Empowerment

If we analyse energy communities from the perspective of consumer rights,<sup>20</sup> it can indeed be noted that every right increases the level of its effectiveness if exercised within the energy community.

The collective dimension of energy generation, consumption and storage can be seen as the new European way to raise the effective level of consumer protection. It is evident that the passage from an individual to a collective dimension strengthens the power of consumers who can, if united, become energy suppliers themselves, expanding thus possible choices in the energy field that can no longer be reduced to the mere possibility of choosing between different suppliers, but also to become suppliers.

Each consumer has the opportunity to become part of energy communities, thus increasing the possibility of understanding contractual mechanisms since they are an active part of the establishment of an organisation whose aim is to achieve shared objectives such as the mitigation of energy costs, but also to implement activities that bring benefits to the community in which they live.

In this sense, the European unitary option for energy communities that carry out generation, distribution, and storage activities without pursuing a profit-making purpose<sup>21</sup> constitutes an important characterisation whose aim is to serve the interests of the people and communities involved. It is well understood that the European choice to strengthen the position of consumers by transforming them from recipients of protection standards into market players is not simple and represents one of the many challenges posed by energy transition.<sup>22</sup> Collective consumption and production initiatives can in fact involve very heterogeneous subjects such as private citizens, small and medium-sized enterprises, and local authorities in a new context and in ways that have often never been experienced before. The coexistence of many heterogeneous subjects within the same aggregation requires the careful implementation of the principles of non-

<sup>20</sup> 'Clean energy for all Europeans package'. V. European Commission, Directorate-General for Energy, European energy consumers' rights: what you gain as an energy consumer from European legislation, Publications Office, 2015, <https://data.europa.eu/doi/10.2833/109209>

<sup>21</sup> CEC is realized following no profit goals. See art. 2, n. 11, lett. b) of the IEM Directive. REC also is a non-profit organization. See Art. 2, n. 16, lett. c) of the RED II Directive.

<sup>22</sup> A. Duterque, 'The liberalisation of EU energy markets: A consumer's perspective' 2 *Journal of European Consumer and Market Law*, 80-96 (2013).

discrimination, participation, transparency and fairness in every phase of the life of the community.

It is no coincidence that in both Directives the European legislator has given some indications that can be considered mandatory by the Member States when transposing the Directive and even more so when drafting the statutes and constitutive acts of the community.<sup>23</sup>

The REC is characterised by open participation on a voluntary basis. It is an autonomous legal entity with respect to its constituent entities. Control of the community is entrusted to shareholders or to members operating nearby, thus giving a local connotation to the community. But certainly, the profile of greater "empowerment" is represented by the fact that the power plant for power generation using renewable sources is owned by or is in any case under the legal disposal of the community.

It is evident that the connotation of proximity favours the capturing of the needs and requirements of the local community so much that this legal entity becomes an important point of reference that manages to aggregate citizens, businesses, and local authorities in the realisation of a shared programme that pursues objectives of economic, social, or environmental benefit. Abandoning financial profit as the only logic underlying power generation is one of the most important consequences of the European New Green Deal. Significantly, in transposing this directive, the Italian legislator has provided an enlarged list of subjects that can give life to the REC, including research and training entities, religious entities, third sector and environmental protection entities, as well as local administrations.<sup>24</sup>

In the CEC, the active participation of citizens is reflected in areas that until recently were characterised by strong 'centralisation': in fact, they can participate in energy generation, distribution, supply, consumption, aggregation, storage and energy efficiency services. According to Directive 944 of 2019, the CEC could operate charging services for e-mobility and, more generally, could become a player in the provision of other energy services for those who are members or partners. It is clear that the interaction between the energy community thus composed and traditional operators of the energy market implies the elimination of administrative-regulatory, fiscal and more generally bureaucratic obstacles, and a profound rethinking of the organisation of the energy market.

### 4 'Speedy' Transition v 'Just' Transition? The Problem of Energy Poverty.

The implementation of the legislation in the Member States will take time, which, unfortunately, is hardly compatible with the need to more quickly reach the decarbonisation objectives. In this regard, it is a matter of concern that, while the States are preparing to modify the economic activities and the regulatory instruments on the basis of the rules contained in the RED II Directive 2001 and in the IEM Directive, the European Union has already initiated a process of

<sup>23</sup> M. Jasak, 'Energy Communities in the EU. Challenges for the Implementation of the EU Legal Framework', in M. M. Roggenkamp and C. Banet eds, *European Energy Law Report* (Cambridge: Intersentia, 2021), XIV, 204-218.

<sup>24</sup> Decreto legislativo 8 November 2021, Art 31, par 1, lett b.

modification of the regulatory framework. As can be seen from the accompanying report to the proposed amendment of the RED II Directive '(...) the current EU target of at least 32% renewable energy by 2030, set in the RED II Directive, is not sufficient and needs to be increased to 38-40%, according to the Climate Target Plan (CTP)'.<sup>25</sup> In the proposal for the modernisation of Directive 2001/2018, the introduction of an information obligation to improve the transparency of the energy market and increase the level of awareness of citizens, businesses and more generally of civil society on the role of renewables is of particular importance. The operators of the transmission and distribution system are, in fact, obliged to make available information on the share of renewable energy sources and on the greenhouse gas content of the electricity they supply. The growing role attributed to the energy storage activity leads the European legislator to provide that battery owners and third parties who may act on their behalf have the right to access information on 'battery capacity, state of health, state of charge and power set point'.<sup>26</sup>

The IEM has introduced a legal definition of energy poverty and vulnerability by deeply innovating the culture of protection: the taxonomy that distinguishes consumers from professionals is not aligned to energy transition that is based on equity. The introduction of poverty and vulnerability into the regulatory scenario<sup>27</sup> is one of the most fruitful outcomes of plans which, starting from 2015, have focused on declining European policies in terms of equity.<sup>28</sup> Poverty and vulnerability are problems that have been brought to the attention of the legislator since 2015:<sup>29</sup> energy tariffs impact on people in poverty in a consistent way with significant consequences also on fundamental rights such as the right to health.

Directive no 944 of 2019, matured in a legislative scenario now aware of the problem of energy poverty, defines vulnerability by outlining as a possible strategy an integrated approach of social and energy policies, such as the energy efficiency of public residential buildings, mitigation of energy costs for those in poverty, thus making these issues inescapable for the Member States.<sup>30</sup> The Directive marks a turning point because it combines and harmonises the objectives of the UN Agenda 2030 which contemplate not only clean energy, but also accessible energy with a common commitment in the fight against poverty.<sup>31</sup> It acts as a 'forerunner' to new,

<sup>25</sup> V. Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive (EU) 2018/2001 of the European Parliament and of the Council, Regulation (EU) 2018/1999 of the European Parliament and of the Council and Directive 98/70/EC of the European Parliament and of the Council as regards the promotion of energy from renewable sources, and repealing Council Directive (EU) 2015/652, Explanatory Memorandum, sub par 1.

<sup>26</sup> V. Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive (EU) 2018/2001, n 25 above, 12.

<sup>27</sup> Even Directive RED II mentions energy poverty where in recital 67 identifies in the CERan instrument capable of reducing consumption and supply tariffs.

<sup>28</sup> V. ILO, 2015, Guidelines for a just transition towards environmentally sustainable economies and societies for all.

<sup>29</sup> Reference is made to Commission Communication of 25 February 2015 titled 'A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy'.

<sup>30</sup> *Considerando* 60 and Art 5, para 2 and 3 of Directive no 944 of 2019.

<sup>31</sup> Art 29 of the Directive expressly covers energy poverty and requires Member States to identify criteria such as low income, high energy expenditure relative to disposable income and low energy efficiency to identify families in poverty. On the issue J. Lowitzsch, 'The Consumer at the Hearth of the Energy Markets?', in Id ed, *Energy Transition. Financing consumer co-ownership in renewables* (Palgrave Macmillan: Frankfurt, 2019), 68.

more specific rules that can better combat energy poverty and which will most likely be contained in the Recast of Directive 2012/27/EU on energy efficiency.<sup>32</sup> The vulnerability of the energy market customer is something more than and different from mere contractual weakness.<sup>33</sup> The vulnerable customer is one who, due to income conditions and the cost of energy, is unable to use energy, an asset whose purpose is the effective enjoyment of a plurality of fundamental rights. Particular health conditions can cause a vulnerability that consists of the need for the continuous use of medical-therapeutic equipment powered by electricity, which is necessary to sustain life. Even people with severe disabilities<sup>34</sup> or who are located in rural or remote areas or who, as a result of disasters, are infrastructurally 'fragile' and as such deserving of targeted interventions<sup>35</sup> fall into this category.

For example, if the customer or their family member needs electrically powered life-saving machines, it will be necessary to prohibit the interruption of the supply of electricity during critical periods that could otherwise be legitimately done by the suppliers. If an energy community is constituted in a given area, be it made of citizens or a renewable community, specific measures must be adopted to allow also the inclusion of potentially existing vulnerable subjects: energy communities are, therefore, thought of by the European legislator as inclusive communities 'tailored' for the poor and/or frail.

Vulnerability does not end in economic poverty, but is characterised by a condition of fragility sometimes determined by non-economic factors: for this reason, measures such as the establishment of National Energy Poverty Observatories<sup>36</sup> and those contained in the Proposal for the establishment of a Social Climate Fund<sup>37</sup> are highly important. In the Proposal, we witness an expansion of protection: energy poverty affects not only families who have to pay the costs of heating, but also micro-enterprises that are unable to meet the cost of energy with their turnover.<sup>38</sup> It also expressly contemplates the cost of transport: the energy cost of transport, as in the case of the cooling or heating of homes, risks being passed on

<sup>32</sup> See Proposal for recast of Directive 2012/27/EU on energy efficiency.

<sup>33</sup> On the issue L. Ruggeri and M. Giobbi, 'Vulnerabilità economica tra diritto emergenziale e contrattuale' 12 bis *Attualità Giuridica Iberoamericana*, 340, (2020).

<sup>34</sup> The definition of serious disability is contained in Art 3 of legge 5 February 1992, no 104.

<sup>35</sup> Vulnerability has become a very topical issue following the pandemic. For an examination of emergency legislation and its impact on contractual relationships in the energy market cfr L. Ruggeri, 'Morosità e tutela dei clienti tra nuova regolamentazione del mercato energetico e gestione dell'emergenza pandemica', in E. Llamas Pombo et al eds, *Il consumatore e la normativa emergenziale ai tempi del Covid-19* (Edizioni Scientifiche Italiane: Napoli, 2021), 627.

<sup>36</sup> Commission Recommendation (EU) 2020/1563 of 14 October 2020 on energy poverty C/2020/9600 (OJ L 357, 27.10.2020, p. 35).

<sup>37</sup> Reference is made to Proposal for a Regulation of the European Parliament and of the Council establishing a Social Climate Fund or 14 July 2021, COM(2021) 568 final 2021/0206 (COD).

<sup>38</sup> In the Proposal it is literally stated that (see page 5): 'The Fund addresses in particular the energy poverty challenges for vulnerable households and vulnerable micro-enterprises. It should support measures to promote energy efficiency, energy saving and the development of new and renewable forms of energy, as indicated in Article 194(1)(c) of TFEU. The Fund also needs to address the situation of vulnerable transport users. It should support measures to facilitate their access to zero- and low-emission mobility and transport solutions, including public transport, and thereby contribute to achieve the objectives of the common transport policy as indicated in Article 91(1)(d) of TFEU'.

to end users without an adequate assessment of the impact of that cost on people's lives.

We therefore understand the relevance of a principle of substantive equality, well known for example in the Italian Constitution (Art 3, para 2). In a non-formal vision of equality, the sharing of energy costs carried out in the logic of equal treatment becomes the cause of 'injustices'. In the logic of equality, those who are rich still manage to have income to spend on other needs, even non-essential ones, while those who are poor suffer such impoverishment that they can even put the satisfaction of primary needs at risk. The impact of the energy cost, if we look at it as being related to a primary and essential asset, is also significant in a gender dimension: 'women are particularly affected by carbon pricing measures as they represent 85% of single parent families. Single parent families have a particular high risk of child poverty'.<sup>39</sup>

In this scenario, the energy community constitutes an expression of subsidiarity understood as an action that promotes the pursuit of general interests from the bottom up, just as expressly prefigured by Art 118 of the Italian Constitution. The energy community, therefore, also becomes an instrument for promoting solidarity, a value closely connected to dignity, in a value dimension well rooted in European constitutionalism.

As can be seen, the impact on regulation of Just Transition is truly significant, a harbinger of legislative innovations, capable of consolidating jurisprudential orientations closely connected to the needs of safeguarding human dignity and, more generally, life on the planet.<sup>40</sup> If we want to summarise, without a just and inclusive energy transition, many of the objectives that serve as the underlying reason for the transition are put at risk.

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<sup>39</sup> Ibid, recital 19.

<sup>40</sup> L. Ruggeri, 'Legislative Policies and Jurisprudence on Climate Change: New Tools for Removing the Barriers to New Forms of Energy Consumptions', in L. Ruggeri ed, *Needs and Barriers of Prosumerism in the Energy Transition Era* (Dykinson: Madrid, 2021), 98-110.

## Part II

### Comparing the Experiences in a Global Context