

FIGHTING ENERGY POVERTY IN LANDS TRIGGERED BY NATURAL HAZARDS: THE CASE OF MACERATA FELTRIA, PIEVE TORINA AND MUCCIA

Ivan Allegranti¹

¹Faculty of Law, University of Camerino (Italy). E-mail: ivan.allegranti@unicam.it

Abstract

Access to energy has been, especially in recent times after the Ukrainian War and recent natural hazards, a significant theme among European policymakers. Still, there are some parts of Italy, especially the Marche region, which since 2016 are living in an emergency because of the seismic events. Considering this situation, this paper investigates the policy adopted by the Italian Government and the ARERA Authority regarding electricity bills in the territories affected by the natural hazard. This paper aims to highlight how, in lands triggered by a disaster, the most convenient solution to combat the accessibility of energy and the consequent energy poverty of the evacuees, is the creation of energy communities. In this regard – also thanks to the Directive EU 2018/ 2001 (also known for RED II Directive), the funds of the Next Generation EU and the recent Marche Regional Law of 11 June 2021 n. 10 which can contribute to an increase in the creation by rural areas communities of new energy communities – there are already case studies and best practices such as those Macerata Feltria (Pesaro-Urbino) and the future developments of Muccia and Pieve Torina (both located in the crater of the Marche region in the province of Macerata), than can be taken as an example for future developments of energy communities in the Italian rural areas affected by a disaster.

Keywords: Disaster Law; Energy Bills; Energy Law; Energy Communities; Prosumerism.

1. INTRODUCTION

February 24, 2022, will be considered in future years as a date to remember as the invasion of Ukraine by the Russian military forces has been completed¹. While the COVID-19 pandemic is still ongoing, the Russian-Ukrainian conflict has on the one hand, accentuated the risks that refugees will suffer because of the virus², while on the other hand, has opened the eyes of the world to the global challenges regarding energy resources. For instance, the Russia-Ukrainian conflict, because of the sanctions given by Europe and the USA³, has shown the dependency that states' economies have on Russian

¹ Umar M. et al.. "Impact of Russian-Ukraine war on clean energy, conventional energy, and metal markets: Evidence from event study approach." *Resources Policies*, no. 79 (2022) 102966, <https://doi.org/10.1016/j.resourpol.2022.102966>.

² Choudhary O.P. et al.. "Russo-Ukrainian war: An unexpected event during the COVID-19 pandemic." *Travel Med Infect Dis.*, no 48 (2022) 102346. doi: 10.1016/j.tmaid.2022.102346.

³ For a complete graphic tracking the sanctions given by countries around the world to Russia see: Funakoshi et al, Tracking sanctions against Russia, Reuters.com, English, <https://graphics.reuters.com/UKRAINE-CRISIS/SANCTIONS/byvrjenzmve/>, last accessed 18.10.2022.

commodities⁴. In fact, in 2019, Russia's exports of crude oil, natural gas, gold, and coal amounted to \$123 billion (crude oil), \$66.2 billion (refined oil products), \$24.55 billion (natural gas), and \$ 22.09 billion (coal), thus making the country the world's third-largest producer of crude oil, with an estimated 10 million barrels per day and a share of the world total equal to 11%⁵. It emerges that the energy market is a driving economic resource for Russia's economy, as it represents 42% and 24% of the total stock market capitalization as of December 2020⁶. It needs to be further noted that the Federation's economy is mostly concentrated on export of goods, of which more than 50% are devoted to the Chinese, European, and American markets⁷.

In this regard, the dependency that all European Member States have on Russia natural resources is incomparable with that of other countries around the world. In fact, since the start of the conflict, as reported by the Center for Research on Energy and Clean Air (CREA), 58 billion euros worth of fossil fuels have been exported via shipments and pipelines from Russia since the beginning of the invasion. The EU imported 70% of these, worth approximately 39 billion EUR, and its largest importers among its member states order Germany (EUR8.3bln), Netherlands (EUR6bln), Italy (EUR4.3bln), Poland (EUR3.4bln), Turkey (EUR2.7bln), and France (EUR2.4bln)⁸.

As a result, European policymakers are discussing finding possible and effective solutions that will allow both Europe to become independent from Russia's gas⁹, as well as European inhabitants to have energy supplies at affordable prices in the upcoming winter¹⁰. In fact, the main concern among European citizens and policymakers is the rising of people living in energy poverty¹¹ because of the raising costs of energy bills caused by the Russo-Ukrainian conflict¹². For instance, because the energy bill's prices

⁴ Del Lo G., I. Marcellin and T. Bassène, Babacar Sène. "The Russo-Ukrainian war and financial markets: the role of dependence on Russian commodities." *Finance Research Letters*, no 50 (2022) 103194, <https://doi.org/10.1016/j.frl.2022.103194>.

⁵ For a full report on Russian exports see: OEC, Russia, English, <https://oec.world/en/profile/country/rus>, last accessed 18.10. 2022.

⁶ Costola M., Lorusso M., Spillovers among energy commodities and the Russian stock market, *Journal of Commodity Markets*, 2022, p. 100249

⁷ United Nations. "International Trade Statistics Yearbook." Statistics Division volume 1: New York, 2021.

⁸ Myllyvirta L., Thieriot H., Financing Putin's war on Europe: Fossil fuel imports from Russia in the first two months of the invasion, CREA, English, https://energyandcleanair.org/wp/wp-content/uploads/2022/05/Corrected_Fossil-fuel-imports-from-Russia-first-two-months-invasion.pdf, last accessed 18. 10. 2022.

⁹ For an overview of Europe's measures into becoming independent from Russia's gas see: Van Halm I., How can EU end its dependence on Russian gas?, Energy Monitor, English, <https://www.energymonitor.ai/policy/how-can-the-eu-end-its-dependence-on-russian-gas> , last accessed 18.10.2022.

¹⁰ Osička J., Černoch F. "European energy politics after Ukraine: The road ahead." *Energy Research & Social Science*, no. 91 (2022) 102757, <https://doi.org/10.1016/j.erss.2022.102757>.

¹¹ Energy poverty has been defined as "the absence of sufficient choice in accessing adequate, affordable, reliable, high-quality, safe and environmentally benign energy services to support economic and human development" (Reddy A., 2000, p.44).

¹² Jack V., Ukraine war heats up energy poverty debate, Politico, English, <https://www.politico.eu/article/ukraine-war-heats-up-energy-poverty-debate/>, last accessed 18.10.2022.

have increased dramatically, energy poverty might become a new social concern in the EU¹³.

While the entire world is facing an unprecedented economic and energy crisis, there are places, like the Marche region in Italy, that are still living in the middle of an emergency. Between August 2016 and January 2017¹⁴, four regions of central Italy (Abruzzo, Umbria, Lazio, and Marche), were hit by a series of seismic events that destroyed 138 municipalities, of which 85 were located in the Marche region¹⁵. The damages caused by the events amounted to 16 billion euros (Corte dei Conti, 2021). Following the events, the Italian Government has adopted, through Decree-Law October 17, 2016, n.189 a «reconstruction plan» that regulates both the private and public reconstruction of the buildings destroyed by the catastrophe¹⁶. Inhabitants were thus relocated either in Emergency Houses Solutions (SAE) or have been provided with a monthly allowance (Contributo Autonomia Sistemazione or shortly CAS) to relocate to a place directly chosen by them¹⁷. Also, if the houses were destroyed, regarding energy and electricity bills, have been adopted multiple decisions regarding the inhabitants of the affected areas.

2. METHODS

The methodology used for this research is qualitative. Who writes has adopted a comparative approach. In fact, legal texts and legal literature from different territorial contexts (the UN, the EU and the Italian legal framework) have been analyzed for the current analysis. Moreover, the comparative approach has been focused on the Italian national laws and the Marche regional laws regulating the phenomena of the Renewable Energy Communities (also RES)¹⁸. Furthermore, the comparative approach has also been used in the investigation of the policies adopted in “global contexts” with regard to RES and energy poverty, thus expanding the examination to soft law documents¹⁹.

In light of the comparative methodology used, this paper has the scope to demonstrate how the adoption of energy communities in rural areas and in lands triggered by natural hazards such as those located in the Marche Region (Italy), can be the solution in order to avoid the energy poverty issues arising due to the Russo-Ukrainian, which have

¹³ For a recent overview on energy poverty data among the EU Memberstates see: Simon F., Taylor K., Energy crisis could worsen poverty for millions of Europeans, Euractive magazine, English, <https://www.euractiv.com/section/energy-environment/news/energy-crisis-could-worsen-poverty-for-millions-of-europeans/>, last accessed 18.10.2022.

¹⁴ The earthquakes of 2016 were in sequence and followed respectively two and three months after the previous one. The first was on 24 August 2016 at 03:36 in the morning, the second on 26 October 2016 at 21:18, the third on 30 October 2016 at 07:40 and the last on 18 January 2017 at 11:14. 299 people died as a result of the earthquake.

¹⁵ For more information about the seismic events see: Italian Government, Sisma 2016, Italian, <https://sisma2016.gov.it>, last accessed 18.10.2022.

¹⁶ Almost after six years from the first event, this decree law is still in force and maintains its importance as the primary rule for the regions hit by the seismic events of 2016-2017.

¹⁷ Allegranti Ivan. “Public Housing in lands affected by natural hazards: a comparative analysis between Italy, Japan and the USA.” *Bratislava Law Review* 6, no 1 (2022) 54.

¹⁸ Pizzorusso A. “La comparazione giuridica e il diritto pubblico.” *Il Foro Italiano*, no 102 (1979) 131.

¹⁹ Mostacci Edmondo, *La soft law nel sistema delle fonti: uno studio comparato*, Padova: Cedam, 2008.

increased the prices of energy sources, within the European Union. In particular, the creation of RES, thanks to private or public investments, will allow inhabitants of rural areas, to become prosumers (active consumers) in the creation and use of energy sources thus having economic benefits and savings when energy bills are issued by the energy provider.

3. ANALYSIS

3.1 Italy and Its Electricity Bill Policies in Territories Triggered by Natural Hazards

The legal framework disciplined by the Italian government in relation to energy bills after the seismic events is given by Article 48 (2) of Decree Law 17 October 2016 n.189. This article ruled that for the energy sectors (electricity, gas, and water), the energy authority, Autorità di Regolazione per l'Energia Reti e Ambiente (ARERA)²⁰, should provide legislative acts related to bill suspensions for a maximum period of six months²¹. At the same time, the Article demands that ARERA rule before 120 days from the entry into force of the Decree Law all the provisions concerning the installment methods for the suspended payments as well as discounts on the tariff for the inhabitants of the municipalities that have been hit by the earthquakes²².

In order to regulate the matter, the ARERA adopted on April 18, 2022, Decision 964-*bis*, which introduced the definitive²³ provisions recalled at Article 48(2) of the Decree-Law 189/2016²⁴. This decision²⁵ has set the entire discipline on energy bills for the populations that faced the seismic events. In particular, for what is of interest for this paper, the ARERA has disciplined, through this decision, a moratorium on electricity and gas bill payments for almost three years²⁶. In order to benefit from this

²⁰ The ARERA is the Italian Independent Authority regulating all the matters concerning energy, water and gas matters. The ARERA decisions are valid *extra omnia* (private individuals, enterprises and public administrations) are subject to its decisions. The ARERA was instituted by Law 14 November 1995 n.481. The law entered into force on 19 November 1995 and the ARERA began to operate from 23 October 1997. For more details see: ARERA, Italian, <https://www.arera.it/it/index.htm>, last accessed 18.10.2022.

²¹ Article 48 (2) of Decree-Law 189/2016.

²² The Decree-Law 189/2016 entered into force on the October 19, 2016.

²³ Before the Delibera 18 Aprile 2017 252/2017/R/com, the ARERA adopted on the 28th of December 2016 which ruled that the bill suspension period was valid for six months from the date of both seismic events of 2016.

²⁴ Delibera 18 April 2017 252/2017/R/com '*Disposizioni in materia di agevolazioni tariffarie e rateizzazione dei pagamenti per le popolazioni colpite dagli eventi sismici verificatisi nei giorni del 24 agosto 2016 e successivi*'.

²⁵ This decision has been integrated by another ARERA decisions until the last one: 111/2021/R/com '*Misure urgenti in materia di servizi elettrico, gas e idrico integrato a sostegno delle popolazioni colpite dagli eventi sismici verificatisi a far data dal 24 agosto 2016 nel centro Italia e in data 21 agosto 2017 nei Comuni di Casamicciola Terme, Lacco Ameno e Forio*'.

²⁶ See Article 2(3) of the Delibera. It has to be noted that the original text of the Delibera 252/2017/R/com ruled that the suspensions were valid for 36 months. With the integration at article 5(3) of Delibera ARERA 587/2018/R/com, the suspension is valid until the 31st of December 2020. In fact the article states that '*All'articolo 2 della deliberazione 252/2017/R/com, dopo il comma 3, è aggiunto il seguente comma: "2.3 bis. Limitatamente alle utenze e forniture localizzate in una zona rossa, in deroga a quanto previsto al precedente comma 2.3, le agevolazioni di cui al presente provvedimento sono riconosciute fino alla data del 31 dicembre 2020"*'. Delibera 587/2018/R/com entered into force on the 20th of November 2018, the same day of when the Decision has been made. In 2020, the Delibera 54/2020/R/com extended the billing suspension also to the municipalities of Comuni di Casamicciola Terme, Lacco Ameno e Forio which faced an earthquake on 21 August 2017. It is worth noting that between

moratorium, the decision has set two types of beneficiaries: those who lived in emergency housing such as SAE, MAPRE, or MAP in houses built for the population's assistance had automatic access to the moratorium, while those excluded by it could make a request to join the benefits in light of Article 3 of the decision. The decision also ruled that the person affected by the emergency wouldn't have to pay the costs for the transmission, distribution, measurement, and infrastructure of the energy supplier, as well as the ancillary surcharges inserted in the bill, but only the effective cost of the consumed energy²⁷ thus resulting in a huge discount of the entire bill amount²⁸.

Concerning the payment methods of the suspended energy bills, those were allowed either in one single payment or through multiple installments. In light of Article 14 of the Decision, consumers are allowed to ask for an installment payments method, thus obliging energy suppliers to not apply any kind of interest for the suspended bills²⁹. In this regard, Article 14 (3), rules that bills must arrive on a regular basis, that installments are not possible for bills under 20 euros, and that the installments can be requested for maximum 24 months after the customer has received the bill³⁰.

This analysis has brought to our attention that in Italy, both during the seismic events as well as during the COVID-19 pandemic, in lands affected by disasters, it has been adopted a policy of "suspension" of energy bills, which lasted more than 6 years. This might result, as has already happened, that energy suppliers might send, at the end of 2022, just one bill concerning the 6-year period, thus demanding the immediate payment of an important sum of money³¹. This policy might then affect people living in the area, which might end up in energy poverty as they are not able to afford the payment of the energy bills.

To avoid this situation, which might "explode" also because of the Russo-Ukrainian conflict, perhaps a solution for the people living in these might be the constitution, among them, of energy communities.

3.2 The European Legal Framework for Energy Communities

2021 and 2022 two other ARERA Decisions have entered into force: *Delibera ARERA 111/2021/R/com 'Misure urgenti in materia di servizi elettrico, gas e idrico integrato a sostegno delle popolazioni colpite dagli eventi sismici verificatisi a far data dal 24 agosto 2016 nel centro Italia e in data 21 agosto 2017 nei Comuni di Casamicciola Terme, Lacco Ameno e Forio'* and *Delibera ARERA 34/2022/R/com*. Both Decisions have extended the moratorium until the December 31, 2022.

²⁷ See Article 5 of the Decision.

²⁸ Allegranti Ivan. "A Comparative Analysis of the Italian and German Laws Regulating Electricity Bills During Exceptional Events." *Baku State University Law Review* 8, no 1 (2022): 116.

²⁹ Art 14 (2).

³⁰ Art. 14 (3).

³¹ The Italian newspaper *Il Resto del Carlino* reports that a customer, victim of the seismic events of 2016 who is resident in Pieve Torina (Macerata), received in December 2020 an electricity bill of 16.985,98 euros. Gentili L., 'Terremotato riceve bolletta da 17 mila euro, *Il Resto del Carlino* 2022, Italian, <https://www.ilrestodelcarlino.it/macerata/cronaca/terremotato-bolletta-17-mila-euro-1.5878185>, last accessed 18. 10. 2022; also Orazi M., *Bollette area sisma, salassi e consume fantasma: 1600 di Enel per Casa inagibile, Cronache Maceratesi*, Italian, <https://www.cronachemaceratesi.it/2022/01/25/bollette-area-sisma-salassi-e-consumi-fantasma-1-600-euro-di-enel-per-casa-inagibile/1605278/>, last accessed 18. 10. 2022.

The European legal framework for energy communities is disciplined in the so called “Clean Energy Package”. The reason for this package has been the need to deliver on the commitments adopted by the European Union during the Paris Agreement³². The package consists of eight new laws that aim to make Europe more energy efficient³³. Following political agreement by the EU Council and the European Parliament (finalized in May 2019) and the entry into force of the different EU rules, EU countries have 1-2 years to convert the new directives into national law.

Two directives, have paved the way for the creation of energy communities: Directive 2018/2001/EU (RED-II) on the use of energy from Renewable Energy Sources (RES)³⁴ and the Directive 2019/944/EU on common rules for the internal electricity market³⁵. The fundamental concepts that the two directives have set out are the concepts of “prosumer” and “energy community”. Article 2 (14) Directive EU 2018/2001 defines the prosumer as ‘renewables self-consumer’ means a final customer operating within its premises located within confined boundaries or, where permitted by a Member State, within other premises, who generates renewable electricity for its own consumption, and who may store or sell self-generated renewable electricity, provided that, for a non-household renewables self-consumer, those activities do not constitute its primary commercial or professional activity”.

Article 2 (14), then defines a REC as a legal entity “which, in accordance with the applicable national law, is based on open and voluntary participation, is autonomous, and is effectively controlled by shareholders or members that are located in the proximity of the renewable energy projects that are owned and developed by that legal entity; (b) the shareholders or members of which are natural persons, SMEs, or local authorities, including municipalities; (c) the primary purpose of which is to provide environmental, economic, or social community benefits for its shareholders or members or for the local areas where it operates, rather than financial profits”. The detailed discipline of both the prosumer and energy communities is enclosed in Articles 21 and 22 of the RED II Directive and in Articles 15 and 16 of Directive UE 2019/944. Still, the two directives present an important difference as they define two different types of energy communities: the Citizen Energy Communities (CECs) defined at Article 16 of Directive EU 2019/944 and the Renewable Energy Communities (RECs) defined under Article 22 of the RED II Directive. Concretely speaking, those differences between both concepts refer to corporate governance, membership, effective control, and autonomy. Moreover, as pointed out by Krug et al.,

³² The Paris Agreement is a legally binding international treaty on climate change. It was adopted by 196 Parties at COP 21 in Paris, on 12 December 2015 and entered into force on 4 November 2016. The main goal of the agreement to limit global warming to well below 2, preferably to 1.5 degrees Celsius. For further information read: United Nations, Paris Agreement, Paris, 2015, https://unfccc.int/sites/default/files/english_paris_agreement.pdf, last accessed 19. 10. 2022.

³³ The package regulates the following aspects of decarbonization: Energy Performance in Buildings, Renewable Energy, Energy Efficiency, Governance of the Energy Union, Electricity Regulation, Risk Preparedness and ACER. For a detailed analysis see: FSR, The Clean Energy for all Europeans Package, FSR, English, <https://fsr.eu.eu/the-clean-energy-for-all-europeans-package/>, last accessed 20.10.2022.

³⁴ European Parliament and Council Directive (EU) 2018/2001 of 11 December 2018 on the promotion of the use of energy from renewable sources (recast) [2018] OJ L 328/82.

³⁵ European Parliament and Council Directive (EU) 2019/944 of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU [2018] OJ L 158/125.

“the primary objective of CECs and RECs is not financial gain, but to bring environmental, economic, or social community benefits to the members or the local areas in which these entities are active.”³⁶

In particular, what needs to be highlighted is that both Directives impose that European Member States shall adopt a collaborative and supportive framework for the establishment of RECs promoting the cooperation between network operators and communities, ensuring transparency and procedural fairness of RECs and their members on charges, taxes, licenses, and concessions, and allowing equal participation of all market actors in obtaining support schemes³⁷. For instance, what has been pointed out in the literature, is that in order for Energy Communities to become a concrete reality, the bureaucracy adopted by single Member States for disciplining them, needs to be reduced.³⁸

A new turning point in the development of Energy Communities across Europe has been the adoption, together with the European Green Deal in 2019³⁹, of the European Next Generation EU Recovery Fund, which is playing an important role in revitalizing the European economy that has ended up in a deep recession following the pandemic crisis of COVID-19, as it has set a budget of 750 billion euros into the EU budget in order to allow Member States to improve their policies (including a just and green energy transition). In fact, the NGEU represents a temporary financial mechanism, for the period 2021–2026, as it supports reforms and investments promoted by Member States, in order to make European countries more sustainable, resilient, and prepared for the challenges and opportunities of the ecological and digital transition⁴⁰. Moreover, among the six main pillars of the NGEU, one is dedicated to the green transition, thus being in compliance with the systemic approach of the Sustainable Development Goal n. 7 “Affordable and Clean Energy for all” promoted by the UN 2030 Agenda⁴¹.

3.3 Energy Communities in Italy

The Italian regulatory framework on Energy Communities has never been organic before 2020, as there were multiple regional laws that tried to discipline the matter⁴². Thanks to the adoption of RED II with the inclusion of Article 42bis of Decree Law 30 December 2019 n. 162 (so called “Milleproroghe” Decree) modified by Law 28 February 2020 n.20 which regulates the establishment of energy communities, a

³⁶ Krug M. et al., *Mainstreaming Community Energy: Is the Renewable Energy Directive a Driver for Renewable Energy Communities in Germany and Italy?*, Sustainability 14, no 12 (2022) 7181. <https://doi.org/10.3390/su14127181>.

³⁷ Article 15 (4) of Directive EU 2019/944 and Article 21 (4) of Directive EU 2018/2001

³⁸ Antonio R.J., “Is Prosumer Capitalism on the Rise?” *The Sociological Quarterly*, no 56 (2015), 472; Garetto R., *Overcoming Energy Poverty through Becoming a Prosumer?*, In: *Needs and Barriers of Prosumerism in the Energy Transition Era*, Madrid: Dykinson, 2021.

³⁹ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions *The European Green Deal*, Brussels, 11.12.2019 COM (2019) 640 Final. Brussels: EC

⁴⁰ Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 Establishing the Recovery and Resilience Facility. *Official Journal of the European Union L 57*: 17–75.

⁴¹ United Nations, *The Sustainable Development Agenda*, English, 2021, <https://www.un.org/sustainabledevelopment/development--agenda/>, last visited 20.10.2022.

⁴² For a detailed overview of the previous regulatory framework see: Bevilacqua C., “Le comunità energetiche fra governance e sviluppo locale.” *Amministrazione in Cammino* (2020) 1.

uniform discipline on RES has been introduced in Italy. In particular, the analyzed article rules that eligible RES plants of RECs and collective self-consumers are required to start operation after March 1, 2020, but their size has to be limited to 200 kW. Furthermore, in order to encourage the creation of RES, the Decree Law 9 May 2020 n. 34, has offered up to 110% tax deductions of personal income (Superbonus) for energy efficiency measures and new PV installations up to 20 kWp on private households, as well as the creation of RECs and collective self-consumers.

The ARERA Resolution of 4 August 2020 has then established criteria for regulating specific economic items (i.e., energy costs, energy prices, taxes, and duties) related to self-consumption or energy sharing within RECs⁴³.

Subsequently, on November 8, 2021, it was approved by Legislative Decree No. 199 which at Article 31 has relaxed the limits imposed by Decree Law 162/2019. In particular, RECs are limited to the same electricity market zone and the incentives are granted to RECs where the members (producers and consumers) are connected to the same primary electrical substation (i.e., they can be connected to the medium voltage grid) and as Article 8 has stated, REC power plants are needed to have a power up to 1 MW.

In Italy, due to the concurrent competence between the state and the regions in light of Article 117 of the Constitution, every region within the country has the power to adopt its specific measures to implement its energy policies⁴⁴ as it has been adopted within the Italian legal system the principle of “maximum development of renewable energies”⁴⁵. In this regard, every region can adopt, in light of the national provisions on energy, the provisions useful to promote their regional sustainable development⁴⁶. Still, what has been pointed out, and has not been fully addressed by ARERA and the government, is the fact that there needs to be uniformity within the guidelines offered to the regions within the regulation of energy communities, as “bureaucratic procedures too complex need to be simplified, and it will be necessary to avoid inconsistencies between one territory and another because they could be reflected in unequal treatment for prosumer citizens”⁴⁷.

In this regard, on June 8, 2021, the Marche Region has adopted the Regional Law of 11 June 2021 n.10 which fully incorporates the provisions of the RED II Directive and the national legislation on REC. Article 5, states that the region will play an active role in the promotion of the development within the region of new energy communities, thus creating financial bonuses and adopting strategic communication across the region in order to enhance and promote these communities.

⁴³ ARERA Resolution of 4 August 2020, 318/2020/R/eel

⁴⁴ Cassese S., “L’energia elettrica nella legge costituzionale n. 3/2001.” *Federalismi.it*, (2001) 4. See also the following judgments of the Italian Constitutional Court n. 383/2005, n. 278/2010, and n. 275/2012.

⁴⁵ See: Italian Constitutional Court Judgment n.224/2018 and 117/2018.

⁴⁶ Meinardis M., *Competenza concorrente e fonti secondarie nel “governo” delle energie rinnovabili*, Osservatorio Sulle fonti, no 3 (2020) 1338.

⁴⁷ Vella G., *Regionalization of the Italian Legislation on Energy Communities: An Obstacle to Prosumerism*, In: *Needs and Barriers of Prosumerism in the Energy Transition Era*, Madrid: Dykinson 2021.

3.4. Best Practices in the Marche Region: The Cases of Macerata Feltria, Muccia and Pieve Torina

Currently, as reported by Legambiente, there are 100 energy communities across Italy, of which 35 are active energy communities, 41 are under construction, and 24 are in progress of completing the projects⁴⁸. One of them stands out, as it is located in Macerata Feltria (Marche Region), near the crater of the earthquake. Macerata Feltria is a small town of about 2,000 inhabitants in the province of Pesaro-Urbino⁴⁹.

The enterprise ILM s.r.l., Gruppo Professione Energia and the association Energy People Alliance have in fact worked closely with the municipality of Feltria in order to create an energy community that will function for the entire municipality. In fact, in regard to the technical aspects, the energy community will be possible thanks to the installments of solar panels, which will produce a total power of 1 MW thus satisfying at least 40% of the entire town's energy consumption⁵⁰. The financing for this energy community has been private and its future management will be either through the creation of an association as ruled in Article 36 of the Italian Civil Code or through the creation of a social enterprise as disciplined by Legislative Decree 2 July 2017 n.112⁵¹. The energy community of Macerata Feltria has operated since 2021 and has been considered a best practice among Italian energy policymakers.

For instance, what has been achieved in Macerata Feltria, can also be achieved within the crater of 2016-017 seismic events, as all these territories are located in rural areas with similar environmental characteristics. In particular, the Extraordinary Commissioner for the Reconstruction of Seismic Events (Commissario Straordinario per la ricostruzione) has adopted with the Ordinance 24 of 30 June 2022 a “call for action” in order to promote, among private owners, enterprises, or municipalities located in the areas affected by the hazard, the creation of new energy communities⁵² of 500-900 kW. In this regard, municipalities, private individuals, and enterprises have time until November 30, 2022, to present projects and ideas that can be financed through this call for action for a total amount of 68 million euros. The financial help introduced by the provision in Article 3 will be 100% and will be given upon a positive evaluation of the project from the Reconstruction Office of the Commissioners. The scope of this measure is in fact to reconstruct those rural areas in a just and sustainable

⁴⁸ Legambiente, *Comunità Rinnovabili 2022*, Rome: Legambiente, 2022.

⁴⁹ Macerata Feltria is a municipality located in the province of Pesaro Urbino on a hill 321m above the sea level. As the last census in 2018, the municipality has 1994 inhabitants. For more informations see: Comune Macerata Feltria, Italian, <https://www.comune.maceratafeltria.pu.it>, last accessed 20. 10. 2022.

⁵⁰ See ILM Group, *Progetto per la realizzazione della Comunità Energetica di Macerata Feltria*, 2021, Italian, <https://www.ilmgroup.net/macerata-feltria-il-progetto/>, last accessed 22.10.2022.

⁵¹ Legambiente, *Comunità Rinnovabili 2022*, Rome: Legambiente, 2022, 52. An example of a fully operative energy community can be the one of Comuné, Italy, which is operated through the institution of an APS (Associazione Promozione Sociale) as ruled by articles 36 and 36 of the Legislative Decree 112/2017. In this regard see: Caforio V., Russo G., *Strutture e forme di comunità energetiche il modello di Comuné*, In: *La via italiana alle comunità energetiche*, Napoli: Edizioni Scientifiche Italiane, 2022.

⁵² Commissario Straordinario, *Bando per la presentazione di progetti, da parte di enti pubblici ed amministrazioni, anche in partenariato con le imprese, ai fini della realizzazione di sistemi centralizzati di produzione e distribuzione intelligente di energia e/o calore da fonti rinnovabili, anche attraverso comunità energetiche per la condivisione dell'energia*, 2022, Italian, <https://sisma2016.gov.it/wp-content/uploads/2022/09/Bando-CER-sub-misure-A2.3-e-A2.4.pdf>, last accessed 21.10.2022.

way that will allow future generations to live in a green environment and avoiding energy poverty.

As per today, the municipality of Pieve Torina⁵³ has manifested through multiple meetings among citizens the interest in the creation of an energy community, thus preparing projects to start the construction of a REC⁵⁴. In the same direction the municipality of Muccia⁵⁵ that since 2021 is in discussion with Legambiente for the creation of an energy community in the city⁵⁶. Today, the two municipalities have just communicated their adherence to entering the REC program, but concretely nothing has been done or projected. Still, what needs to be highlighted is the fact that a few municipalities across the seismic crater are moving in the direction of the creation of REC. This will be simpler for them because within the region there is the example of Macerata Feltria, which stands out across Italy as a best practice.

4. CLOSING

This article has been an occasion to reflect on the current energy crisis that the world, but especially Europe, is facing because of the Russo-Ukrainian conflict. In particular, it has been highlighted that besides this geo-politic conflict, there are places, such as those located in the Marche region, that are still living in a disaster zone due to the recent 2016-2017 seismic events. These places, especially today, are more vulnerable than others regarding the energy crisis. In fact, as the suspension policies of bills are still in force, the risk of the inhabitants of the Marche region becoming energy poor once the moratorium adopted by ARERA over is serious. In this regard, as pointed out, the creation in rural areas, especially those affected by the hazards of REC might be a solution for the whole community. involved. This might be achieved because, both with the European legal framework, and the Italian and regional legal framework there are bonuses and many opportunities to create new energy communities across rural areas. In this regard, the REC created in Macerata Feltria can be a perfect example that can be imported also in Pieve Torina and Muccia, as of today, are the two disaster-affected areas interested in creating a REC and these can be achieved thanks to the bonus promoted by the Extraordinary Commissioner for the Reconstruction which, perhaps, might push the entire region to become a pioneer across Italy in the realization of energy communities.

⁵³ Pieve Torina is a municipality located in the province of Macerata. The municipality is located on a hill at 420 m above the sea level and as 2021 has 1229 inhabitants.

⁵⁴ Comune Pieve Torina, Italian, <https://www.comune.pievetorina.mc.it/avvisi-cms/assemblea-pubblica-la-comunita-energetica-2-2-2/?a=>, last accessed 21. 10. 2022.

⁵⁵ Muccia is a municipality located in the province of Macerata which is located 454 m above the sea level. As 2022, the inhabitants of Muccia are 822. For more informations see Comune Muccia, Italian, <https://www.comune.muccia.mc.it>, last accessed 21.10.2022.

⁵⁶ Picchio News, Legambiente a Muccia per promuovere le comunità energetiche al via il campo di volontariato, 2021, Italian, <https://picchionews.it/curiosita/legambiente-a-muccia-per-promuovere-le-comunita-energetiche-al-via-il-campo-di-volontariato>, last accessed 21.10.2022.

REFERENCES**Journal:**

- Allegranti Ivan. “A Comparative Analysis of the Italian and German Laws Regulating Electricity Bills During Exceptional Events.” *Baku State University Law Review* 8, no 1 (2022): 116.
- Allegranti Ivan. “Public Housing in lands affected by natural hazards: a comparative analysis between Italy, Japan and the USA.” *Bratislava Law Review* 6, no 1 (2022) 54.
- Antonio R.J.. “Is Prosumer Capitalism on the Rise?” *The Sociological Quarterly*, no 56 (2015), 472.
- Bevilacqua C., “Le comunità energetiche fra governance e sviluppo locale.” *Amministrazione in Cammino* (2020) 1.
- Cassese S., “L’energia elettrica nella legge costituzionale n. 3/2001.” *Federalismi.it*, (2001) 4.
- Choudhary O.P. et al.. “Russo-Ukrainian war: An unexpected event during the COVID-19 pandemic.” *Travel Med Infect Dis.*, no 48 (2022) 102346. doi: 10.1016/j.tmaid.2022.102346.
- Costola M., Lorusso M., Spillovers among energy commodities and the Russian stock market, *Journal of Commodity Markets*, 2022, p. 100249,
- Del Lo G., I. Marcellin and T. Bassène, Babacar Sène. “The Russo-Ukrainian war and financial markets: the role of dependence on Russian commodities.” *Finance Research Letters*, no 50 (2022) 103194, <https://doi.org/10.1016/j.frl.2022.103194>.
- Krug M. et al., Mainstreaming Community Energy: Is the Renewable Energy Directive a Driver for Renewable Energy Communities in Germany and Italy?, *Sustainability* 14, no 12 (2022) 7181. <https://doi.org/10.3390/su14127181>.
- Meinardis M., Competenza concorrente e fonti secondarie nel “governo” delle energie rinnovabili, *Osservatorio Sulle fonti*, no 3 (2020) 1338.
- Osička J., Černoč F. “European energy politics after Ukraine: The road ahead.” *Energy Research & Social Science*, no. 91 (2022) 102757, <https://doi.org/10.1016/j.erss.2022.102757>.
- Pizzorusso A. “La comparazione giuridica e il diritto pubblico.” *Il Foro Italiano*, no 102 (1979) 131.
- Umar M. et al.. “Impact of Russian-Ukraine war on clean energy, conventional energy, and metal markets: Evidence from event study approach.” *Resources Policies*, no. 79 (2022) 102966, <https://doi.org/10.1016/j.resourpol.2022.102966>.

Book:

- Caforio V., Russo G., *Strutture e forme di comunità energetiche il modello di Comuné*, In: *La via italiana alle comunità energetiche*, Napoli: Edizioni Scientifiche Italiane, 2022.

Frosini T.E., *Diritto Comparato e diritto Globale*, In: Diritto e storia della comparazione nuovi propositi per un binomio antico, Hamburg: Max Planck Institute for Legal History and Legal Theory, 2018.

Garetto R., *Overcoming Energy Poverty through Becoming a Prosumer?*, In: Needs and Barriers of Prosumerism in the Energy Transition Era, Madrid: Dykinson, 2021.

Legambiente, *Comunità Rinnovabili 2022*, Rome: Legambiente, 2022.

Mostacci Edmondo, *La soft law nel sistema delle fonti: uno studio comparato*, Padova: Cedam, 2008.

Reddy A., *Energy and social issues in World Energy Council and UNEP Energy and the challenge of sustainability* New York, NY: UNEP, 2000.

United Nations. “International Trade Statistics Yearbook.” Statistics Division volume 1: New York, 2021.

Vella G., *Regionalization of the Italian Legislation on Energy Communities: An Obstacle to Prosumerism*, In: Needs and Barriers of Prosumerism in the Energy Transition Era, Madrid: Dykinson 2021.

Regulation

ARERA Delibera 111/2021/R/com.

ARERA Delibera 252/2017/R/com

ARERA Delibera 318/2020/R/eel

Commissario Straordinario, *Bando per la presentazione di progetti, da parte di enti pubblici ed amministrazioni, anche in partenariato con le imprese, ai fini della realizzazione di sistemi centralizzati di produzione e distribuzione intelligente di energia e/o calore da fonti rinnovabili, anche attraverso comunità energetiche per la condivisione dell’energia*, 2022, Italian, <https://sisma2016.gov.it/wp-content/uploads/2022/09/Bando-CER-sub-misure-A2.3-e-A2.4.pdf>, last accessed 21.10.2022.

Commissario Straordinario, *Ordinanza 30 June 2022 n. 24.*

Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions *The European Green Deal*, Brussels, 11.12.2019 COM (2019) 640 Final. Brussels: EC;

Corte dei Conti, *Interventi per la ricostruzione nei territori interessati dal sisma del 24 agosto 2016 – Deliberazione 27 dicembre 2021 n21/2021/G*, Rome, 2021, p. 29.

Decree Law 17 October 2016 no 189.

Decree Law 30 December 2019 n. 162

Decree Law 9 May 2020 n. 34

EU. 2021. Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 Establishing the Recovery and Resilience Facility. Official Journal of the European Union L 57: 17–75.

European Parliament and Council Directive (EU) 2018/2001 of 11 December 2018 on the promotion of the use of energy from renewable sources (recast) [2018] OJ L 328/82.

European Parliament and Council Directive (EU) 2019/944 of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU [2018] OJ L 158/125.

Italian Civil Code

Italian Constitution

Italian Constitutional Court Judgment n. 383/2005,

Italian Constitutional Court Judgment n. 278/2010;

Italian Constitutional Court Judgment n. 275/2012.

Italian Constitutional Court Judgment n.224/2018;

Italian Constitutional Court Judgment n. 117/2018

Legislative Decree 2 July 2017 n.112.

Regional Law of 11 June 2021 n.10

Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 Establishing the Recovery and Resilience Facility. Official Journal of the European Union L 57: 17–75.

United Nations, Paris Agreement, Paris, 2015, https://unfccc.int/sites/default/files/english_paris_agreement.pdf , last accessed 19. 10. 2022

United Nations, The Sustainable Development Agenda, English, 2021, <https://www.un.org/sustainabledevelopment/development--agenda/>, last accessed 20.10.2022.

Article Internet

Comune Macerata Feltria, Italian, <https://www.comune.maceratafeltria.pu.it>, last accessed 20. 10. 2022.

Comune Muccia, Italian, <https://www.comune.muccia.mc.it>, last accessed 21.10.2022.

Comune Pieve Torina, Italian, <https://www.comune.pievetorina.mc.it/avvisi-cms/assemblea-pubblica-la-comunita-energetica-2-2-2/?a=>, last accessed 21. 10. 2022.

Funakoshi M. et al. , Tracking sanctions against Russia, Reuters.com, English, <https://graphics.reuters.com/UKRAINE-CRISIS/SANCTIONS/byvrjenzmve/> , last accessed 18.10.2022.

Gentili L., ‘Terremotato riceve bolletta da 17 mila euro, Il Resto del Carlino 2022, Italian, <https://www.ilrestodelcarlino.it/macerata/cronaca/terremotato-bolletta-17-mila-euro-1.5878185> , last accessed 18. 10. 2022.

ILM Group, Progetto per la realizzazione della Comunità Energetica di Macerata Feltria, 2021, Italian, <https://www.ilmgroup.net/macerata-feltria-il-progetto/> , last accessed 22.10.2022.

Italian Government, Sisma 2016, Italian, <https://sisma2016.gov.it>, last accessed 18.10.2022.

Myllyvirta L., Thieriot H., Financing Putin's war on Europe: Fossil fuel imports from Russia in the first two months of the invasion, CREA, English, https://energyandcleanair.org/wp/wp-content/uploads/2022/05/Corrected_Fossil-fuel-imports-from-Russia-first-two-months-invasion.pdf, last accessed 18. 10. 2022.

OECD, Russia, English, <https://oec.world/en/profile/country/rus>, last accessed 18.10. 2022.

Orazi M., Bollette area sisma, salassi e consume fantasma: 1600 di Enel per Casa inagibile, Cronache Maceratesi, Italian, <https://www.cronachemaceratesi.it/2022/01/25/bollette-area-sisma-salassi-e-consumi-fantasma-1-600-euro-di-enel-per-casa-inagibile/1605278/> , last accessed 18. 10. 2022.

Picchio News, Legambiente a Muccia per promuovere le comunità energetiche al via il campo di volontariato, 2021, Italian, <https://picchionews.it/curiosita/legambiente-a-muccia-per-promuovere-le-comunita-energetiche-al-via-il-campo-di-volontariato>, last accessed 21.10.2022.

Simon F., Taylor K., Energy crisis could worsen poverty for millions of Europeans, Euractive magazine, English, <https://www.euractiv.com/section/energy-environment/news/energy-crisis-could-worsen-poverty-for-millions-of-europeans/> , last accessed 18.10.2022.

Van Halm I., How can EU end its dependence on Russian gas?, Energy Monitor, English, <https://www.energymonitor.ai/policy/how-can-the-eu-end-its-dependence-on-russian-gas> , last accessed 18.10.2022.