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e-mail: ivan.allegranti@unicam.it**AVOIDING ENERGY POVERTY IN LANDS TRIGGERED
BY NATURAL HAZARDS: THE CASE OF MACERATA FELTRIA,
PIEVE TORINA AND MUCCIA**

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. In light of this situation, this paper investigates the policy adopted by the Italian Government and the ARERA Authority in regard to electricity bills in the territories affected by the natural hazard. In particular, this paper aims to highlight how, in lands triggered by a disaster, the most convenient solution in order 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.

Key words: Energy Law, Energy Bills, Disaster Law, Energy Communities, Prosumerism.

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Камерино Университеті, Италия, Камерино қ.
e-mail: ivan.allegranti@unicam.it**Қауіпті табиғи құбылыстардан туындаған жерлерде
энергетикалық кедейліктің алдын алу:
Мацерата-Фелтрия, Пьеве-Торина және Муччидің мысалы**

Энергияға қол жеткізу, әсіресе Украинадағы соғыстан және соңғы табиғи апаттардан кейінгі уақытта, еуропалық саясаткерлер арасында маңызды тақырып болды. Дегенмен, Италияның кейбір аудандары бар, әсіресе марке аймағы, олар 2016 жылдан бері сейсмикалық оқиғаларға байланысты төтенше жағдайда өмір сүріп келеді. Осы жағдайды ескере отырып, бұл құжат Италия үкіметі мен АРЕРА әкімшілігінің табиғи апаттан зардап шеккен аумақтардағы электр энергиясына қатысты қабылдаған саясатын зерттейді. Атап айтқанда, бұл құжаттың мақсаты – апаттан зардап шеккен елдерде энергияның қолжетімділігімен және соның салдарынан эвакуацияланғандардың энергетикалық кедейлігімен күресудің ең қолайлы шешімі энергетикалық қауымдастықтарды құру екенін көрсету. Осыған байланысты-сонымен қатар ЕО 2018/2001 директивасының (RED II директивасы деп те аталады), ЕО-ның келесі буын қорларының және Маркенің 2021 жылғы 11 маусымдағы N аймақтық Заңының арқасында. 10, бұл ауылдық қауымдастықтар құратын жаңа энергетикалық қауымдастықтардың көбеюіне ықпал етуі мүмкін-қазірдің өзінде Мацерата-Фелтрия (Песаро-Урбино) және Мучча мен Пьеве-Ториннің болашақ дамуы (екеуі де Флоренция провинциясындағы Марке аймағының кратерінде орналасқан) сияқты жағдайлық зерттеулер мен ең жақсы тәжірибелер бар. Мацерата), бұл табиғи апаттан зардап шеккен Италияның ауылдық жерлеріндегі энергетикалық қауымдастықтардың болашақ дамуына мысал ретінде алынуы мүмкін.

Түйін сөздер: энергетикалық құқық, электр энергиясына төлемдер, апаттар туралы заң, энергетикалық қауымдастықтар, Просюмеризм.

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**Предотвращение энергетической бедности на землях,
вызванной опасными природными явлениями:
пример Мачераты-Фельтрии, Пьеве-Торины и Муччи**

Доступ к энергии был, особенно в последнее время после войны на Украине и недавних стихийных бедствий, важной темой среди европейских политиков. Тем не менее, есть некоторые районы Италии, особенно регион Марке, которые с 2016 года живут в чрезвычайном положении из-за сейсмических событий. В свете этой ситуации в настоящем документе исследуется политика, принятая правительством Италии и администрацией АРЕРЫ в отношении счетов за электроэнергию на территориях, пострадавших от стихийного бедствия. В частности, цель этого документа – показать, как в странах, пострадавших от стихийного бедствия, наиболее удобным решением для борьбы с доступностью энергии и, как следствие, энергетической бедностью эвакуированных является создание энергетических сообществ. В этом отношении – также благодаря Директиве ЕС 2018/2001 (также известной как Директива RED II), фондам ЕС следующего поколения и недавнему региональному закону Марке от 11 июня 2021 года п. 10, которые могут способствовать увеличению числа создаваемых сельскими сообществами новых энергетических сообществ – уже существуют тематические исследования и лучшие практики, такие как Мачерата-Фельтрия (Пезаро-Урбино) и будущие разработки Мучча и Пьеве-Торина (оба расположены в кратере региона Марке в провинции Флоренция). Мачерата, что может быть взято в качестве примера для будущего развития энергетических сообществ в сельских районах Италии, пострадавших от стихийного бедствия.

Ключевые слова: Энергетическое право, Счета за электроэнергию, Закон о стихийных бедствиях, Энергетические сообщества, Просьюмеризм.

Introduction

Methodology and aim of the research

The methodology used for this research is a qualitative. In particular, who writes has adopted a comparative approach. In fact, legal texts and legal literature of 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 phenomena of the Renewable Energy Communities (also RES) (Pizzorusso 1979). Furthermore, the comparative approach has also been used into the investigation of the policies adopted in “a global contexts” in regards to RES and energy poverty thus enlarging the examination also to soft law documents (Frosini 2018; Mostacci 2008).

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 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.

Today's political challenges of the European Energy Market: war, natural hazards and energy poverty

February 24, 2022, will be considered in future years as a date to remember as the invasion of Ukraine made by the Russian military forces had been completed (Umar et al., 2022). 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 Virus (Choudhary et al., 2022), while on the other hand, has opened the eyes to the world on the global challenges regarding energy resources. For instance, the Russia-Ukrainian conflict, because of the sanctions given by Europe and the USA (<https://graphics.reuters.com/UKRAINE-CRISIS/SANCTIONS/byvrjenzmve/>), has shown the dependency that state's economies have on Russian commodities (Del Lo et al., 2022). In fact, in 2019, Russia's export of crude oil, natural gas, gold and coal have 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% (<https://oec.world/en/profile/country/rus>). It emerges that the energy market is a driving economic resource of Russia's economy as it represents 42% and 24% of the total stock market capitalization as per December 2020 (Costola 2022). It needs to be furthermore noted that the Federation's economy mostly concentrated on export of good which, more than 50% of them, are devoted to the Chinese, European and American markets (United Nations 2020)

In this regard, the dependency that all European Member States have on Russian's natural resources is incomparable with other countries around the world. In fact, since the start of the conflict, as reported by Center for Research on Energy and clean Air (CREA), 58 billion euros worth of fossil fuels were 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 were Germany (EUR8.3bln), Netherlands (EUR6bln), Italy (EUR4.3bln), Poland (EUR3.4bln), Turkey (EUR2.7bln) and France (EUR2.4bln) (https://energyandcleanair.org/wp/wp-content/uploads/2022/05/Corrected_Fossil-fuel-imports-from-Russia-first-two-months-invasion.pdf).

As a result, European policy makers are discussing in finding possible and effective solutions that will allow both Europe to become independent from Russia's gas (<https://www.energymonitor.ai/policy/how-can-the-eu-end-its-dependence-on-russian-gas>), as well as European inhabitants to have energy supplies at affordable prices in the upcoming winter (Osička 2022). In fact, the main concern among European citizen and policy makers is the raising of people living in energy poverty (Reddy 2000: 44) because of the raising costs of energy bills caused by the Russo-Ukrainian conflict (<https://www.politico.eu/article/ukraine-war-heats-up-energy-poverty-debate/>). For instance, because of the energy bill's prices have increased dramatically, energy poverty might become a new social concern among the EU (<https://www.euractiv.com/section/energy-environment/news/energy-crisis-could-worsen-poverty-for-millions-of-europeans/>).

While the entire world is facing an unprecedented economic and energy crisis, there are places, like the Marche region in Italy, which are still living in the middle of an emergency. Between August 2016 and

January 2017, four regions of central Italy (Abruzzo, Umbria, Lazio and Marche), have been hit by a series of seismic events that destroyed 138 municipalities of which 85 were located in the Marche region (<https://sisma2016.gov.it>). The damages caused by the events amounted to 16 billion euros (Corte dei Conti, 2021). Following the events, the Italian Government has adopted, through the Decree-Law October 17, 2016 n.189 a «reconstruction plan» which regulates both the private and public reconstruction of the buildings destroyed by the catastrophe. Inhabitants were thus relocated either in Emergency Houses Solutions (SAE) or have been provided with a monthly allowance (Contributo Autonoma Sistemazione or shortly CAS) to relocate in a place directly chosen by them (Allegranti 2022). Also if the houses were destroyed, in regards to energy and electricity bills, there have been adopted multiple decisions regarding the inhabitants of the affected areas.

Italy and its electricity bills 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 the 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) (<https://www.arera.it/it/index.htm>), should provide legislative acts related to bill suspensions for a maximum period of six months. At the same time, the Article demands the ARERA to rule before 120 days from the entry into force of the Decree Law, all the provisions concerning the installments methods for the suspended payments as well as discounts on the tariff for the inhabitants of the municipalities that have been hit by the earthquakes.

In order to regulate the matter, the ARERA adopted on April 18, 2022, the Decision 964-*bis* which introduced the definitive provisions recalled at Article 48(2) of the Decree-Law 189/2016. This decision has set the entire discipline on energy bills for the populations which 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 payment for almost three years. In order to benefit from this *moratorium* the Decision has set two types of beneficiaries: those who lived emergency housing such as SAE, MAPRE, MAP or in houses built for the population's assistance had automatic access on the

moratorium, while those excluded by it could make a request of joining 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 infrastructures of the energy supplier as well as the ancillary surcharges inserted in the bill but only the effective cost of the consumed energy thus resulting in a huge discount of the entire bill amount (Allegranti 2022, 116).

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 interests for the suspended bills. In this regard, Article 14 (3), rules that bills have arrive on a regular basis, that installments are not possible for bills under 20 euros and that the installments can be asked for maximum 24 months after the customer has received the bill.

This analysis has brought up 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 been already happened, that energy suppliers might send, at the end of 2022, just one bill concerning the 6 years period, thus demanding the payment immediately of an important sum of money (<https://www.ilrestodelcarlino.it/macerata/cronaca/terremoto-bolletta-17-mila-euro-1.5878185>). 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.

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

The European legal framework on Energy communities

The European legal framework on energy communities is disciplined in the so called "Clean Energy Package". The reason of this package has been the need of delivering the commitments adopted by the European Union during the Paris Agreement (https://unfccc.int/sites/default/files/english_paris_agreement.pdf). The package consists of eight new laws which aim to make Europe more energy

efficient (<https://fsr.eui.eu/the-clean-energy-for-all-europeans-package/>). 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.

In particular, two Directives, have paved the way into the creation of energy communities: Directive 2018/2001/EU (RED-II) on the use of energy from Renewable Energy Sources (RES) and the Directive 2019/994/EU on common rules for the internal electricity market. The fundamental concepts that the two Directives have set out are the concept 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 prosumer and energy communities are enclosed at Articles 21 and 22 of the RED II Directive and at Articles 15 and 16 of Directive UE 2019/944. Still, the two Directives present an important difference as they define two different type of energy communities: the Citizen Energy Communities (CECs) defined at Article 16 of Directive EU 2019/944 and Renewable Energy Communities (RECs) defined under Article 22 of 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., "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.” (<https://doi.org/10.3390/su14127181>)

In particular what needs to be highlighted is that both Directives imposed that European Member States shall adopt collaborative and supportive framework for the establishment of REC 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 schemes. For instance, what has been pointed out by the literature, is that in order for Energy Communities to become a concrete reality, the bureaucracy adopted by single Member States into disciplining them, needs to be reduced.

A new turning point into the development of Energy Communities across Europe has been the adoption, together with the European Green Deal in 2019, of the European Next Generation EU Recovery Fund which is playing an important role into revitalize 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 transition. 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 Agenda (<https://www.un.org/sustainabledevelopment/development-agenda/>).

Energy communities in Italy

The Italian regulatory framework on Energy Communities has never been organic before 2020, as there were multiple regional laws that have tried to discipline the matter. 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 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 RECs.

Subsequently, on November 8, 2021 it has been approved the Legislative Decree no. 199 which at Article 31 has relaxed the limits imposed by the 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 need 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 policies as it has been adopted within the Italian legal system the principle of “maximum development of renewable energies”. In this regard, every Region can adopt, in light of the national provisions on energy, the provisions useful to promote their regional sustainable development (Meinardis 2020). 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 an uniformity also 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” (Vella 2021).

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. In particular, Article 5, states that the Region will play an active role into the promotion of the development within the region of new energy communities thus creating financial bonuses and adopting a strategic

communication across the region in order to enhance and promote these communities.

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 projects. In particular, 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-Urbino (<https://www.comune.maceratafeltria.pu.it>).

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 regards to the technical aspects, the energy community will be possible thanks to the installments of solar panels which will produce a total power of 1MW thus satisfying at least 40% of the entire town's energy consumption (<https://www.ilmgroup.net/macerata-feltria-il-progetto>). The financing for this energy community have been private and its future management will be either made 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 the Legislative Decree 2 July 2017 n.112. The energy community of Macerata Feltria operates since 2021 and has been considered a best practice among Italian energy policy makers.

For instance, what has been achieved in Macerata Feltria, can be achieved also within the crater of 2016-2017 seismic events, as all these territories are located in rural areas with similar environmental characteristics. In particular, the Extraordinary Commissioner for the Reconstruction of the 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 the areas affected by the hazard, the creation of new energy communities (<https://sisma2016.gov.it/wp-content/uploads/2022/09/Bando-CER-sub-misure-A2.3-e-A2.4.pdf>) 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 to-

tal amount of 68 million euros. The financial help introduced by the provision at article 3 will be of 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 the reconstruct those rural areas in a just and sustainable way that will allow future generations to live in a green environment and avoiding energy poverty. As per today, the municipality of Pieve Torina has manifested through multiple meetings within citizen the interest into the creation of an energy community thus preparing projects in order to start the construction of a REC (<https://www.comune.pievetorina.mc.it/avvisi-cms/assemblea-pubblica-la-comunita-energetica-2-2-2/?a=>). In the same direction also the municipality of Muccia (<https://www.comune.muccia.mc.it>) that since 2021 is in discussion with Legambiente for the creation of an energy community in the city (<https://picchionews.it/curiosita/legambiente-a-muccia-per-promuovere-le-comunita-energetiche-al-via-il-campo-di-volontariato>).

Today, the two municipalities, have just communicated their adherence into entering in the REC programme, but concretely nothing has been done nor projected. Still, what needs to be highlighted is the fact that 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.

Conclusions

This article has been the 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 Marche region inhabitants becoming energy poor once the moratorium adopted by the ARERA will finish is serious. In this regard, as pointed out, the creation in rural areas, especially those affected by the hazard of REC might be a solution for the whole communities 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.

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Previously sent: December 30, 2023.

Accepted: March 20, 2024.