# TITLE: Comparative transaction cost analysis of possible juridical forms of RECs

# CALL for papers – side 2023

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## Topic: Transaction Cost Economics, and Economics of Institutions

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## Abstract

The delicate balance among economic growth, reduction of inequalities and urgentness of climate change mitigation sets its focal point in the governance of environmental resources, namely (by the purpose of this paper) energy resources.

Given the very strong dependence of anthropogenic activities on the availability of energy (electrical and otherwise) on the well-being of individuals and communities, energy may be considered in terms of *entitlement* of *basic capabilities.* This assumption lies on the current trends of production and consumption in many countries (especially those with a higher dependence on very energy consuming technlogies, some for individual usage, while the development countries especially for the requirement of construction of complex infrastructures). The concept of *decent living standards* is here used as reference.

The model of Renewable Energy Community, introduced in EU by the Renewable Energy Directive 2018/2001 and later (temporarily) implemented at the national level by the D.L. 162/2019, L. 8/2020, is shaped as a form of shared local micro-production of energy from renewable sources. This model allows the reshaping of the energy system on a local, community and collective level. A definitive implementing decree, indicating a preferred institutional preference for RECs, has not yet been produced, slowing down the rise of such configurations. An Energy Community can be defined as a coalition of users who voluntarily join to produce and provide renewable energy at a good price to those same users. It is based on a self-production and decentralized approach to the production of electrical energy. The purpose is the distributed production of power in order to supply the local energy demand and to generate social value.

The lack of the definitive legal reception in Italy leaves space for a wide debate in the academical and stakeholder community about the possible juridical forms of RECs and of the implication of each of those in terms of a variety of aspects, including economical sustainability, possible participants (e.g. individuals, firms, local institutions, etc), et al.. To answer this question, both the legal prescription of the model and transaction costs economics will be used for the comparison of efficiency of different juridical forms.

By use of transaction costs economic theory the author intends to compare and justify the choice of the juridical forms which may best answer to the governance requirement of an institution for sustainable and democratic local/decentralized system of electricity production and consumption, based on a voluntary collective action and on the creation of a community. Aspects of efficiency among various institutional designs on phenomena like incompleteness of contracts, abuse of authority, etc will be analysed.

To the current state of the discussion, mainly from the legal point of view the mainly accepted forms are the non-recognized association (leaving problems in terms of tutelage from responsibility of the configuration, but having lower cost of creation, so easier on a smaller scale) and the co-operative (with higher costs for its creation but holding juridical personality).

This paper is part of a larger interdisciplinary Ph.D. project titled: “The advantages of energy communities and of the co-operative form for an effective democratic governance of renewable energy as commons and related public services, according to the principles of sustainability, environmental and intergenerational justice”, which looks at RECs as a form of commodification and democratization of the energy system, and which aims at the draft of a statute for REC that respects and enhances the principles of sustainability and justice it can potentially address.