

Energy law in support of environnement objectives :

The case of energy communities

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Law as a tool for the social and ecological transition



Agenda



The EU legal framework for energy communities



Energy communities – a driver for the social and ecological transition ?

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The EU legal framework for energy communities



Energy communities – a driver for the social and ecological transition ?

The European legal framework

2 European Directives :

- Directive 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 (« Red II »)
- Directive 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity (“IEMD”)

Art 288 Treaty on the Functioning of the European Union :

“A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods”

Three initial findings

1) There is a lack of public acceptance of renewable energy



Three initial findings

2) NIMBY can be solved by enabling citizens to participate to energy projects



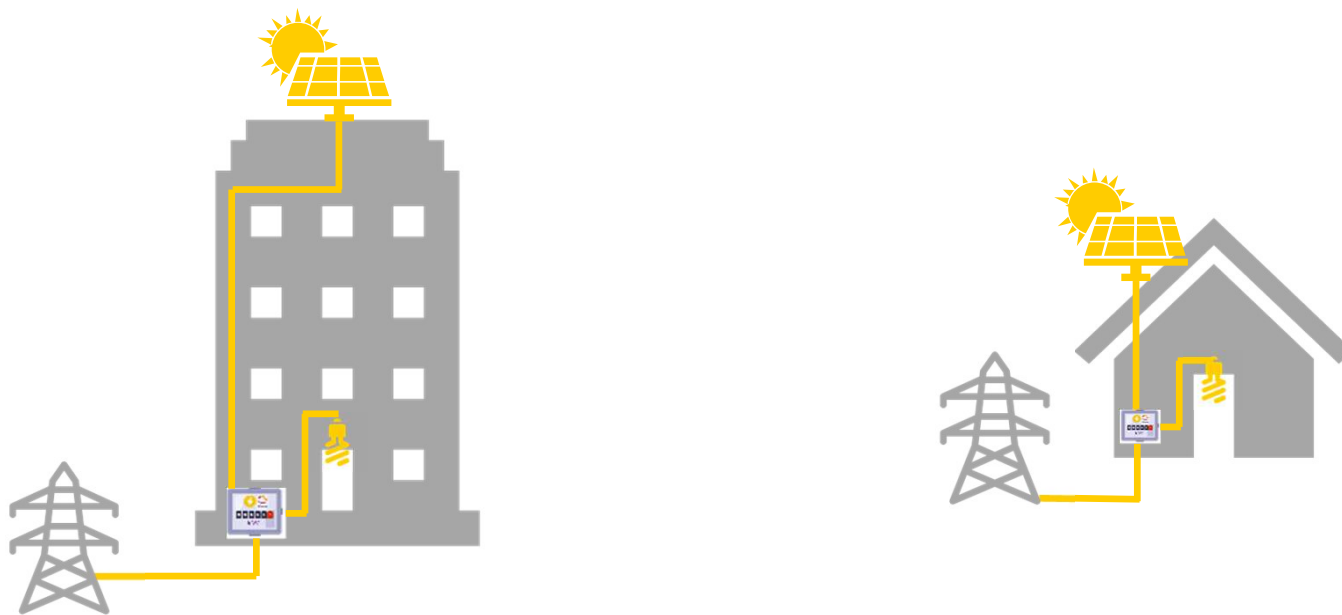
Three initial findings

2) NIMBY can be solved by enabling citizens to participate to energy projects

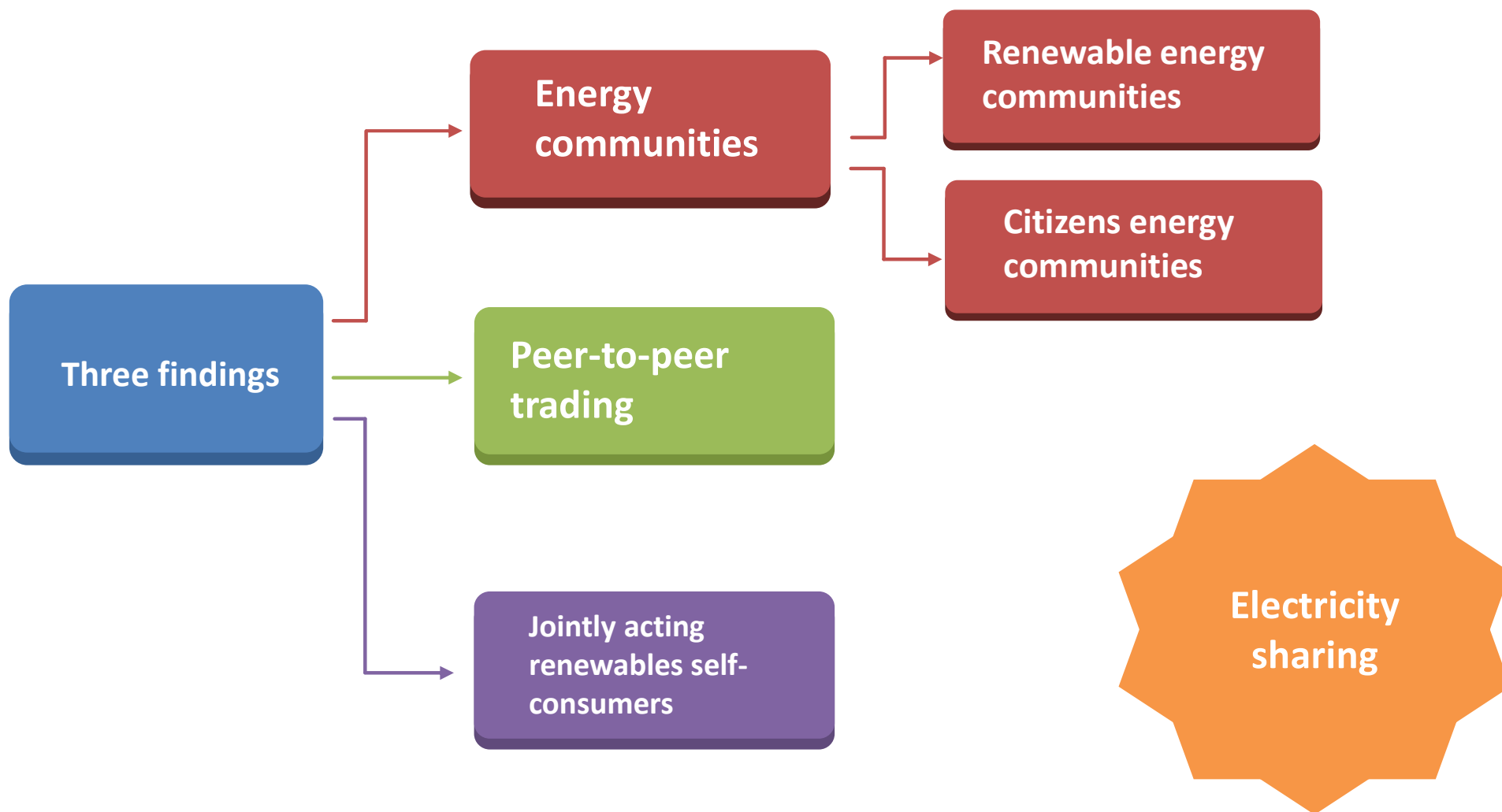


Three initial findings

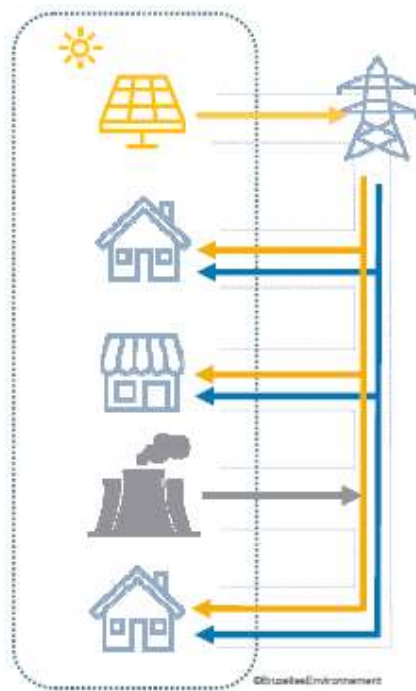
3) But such participation is limited to a financial participation



Three new legal forms and a new activity



Citizens Energy Community (CEC)



Source : Bruxelles environnement

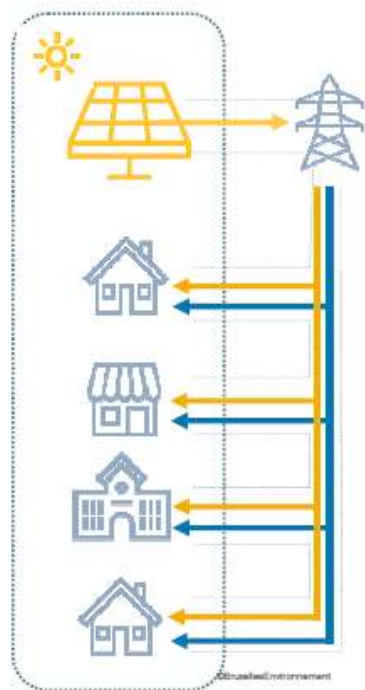
Separate legal entity

Members : any natural or legal person but controlled by individuals, local authorities or small businesses

Includes electricity from non-renewable sources

Electricity sharing if the community **owns** the production facilities

Renewable Energy Community (REC)



Separate legal entity

Members : individuals, SMEs or local authorities
but control by members in **proximity** of renewable energy projects

Exclusively renewable energy

Electricity sharing if the community **owns** the production facilities

Source : Bruxelles environnement

Renewable Energy Community (REC)

Common features

Separate legal entity

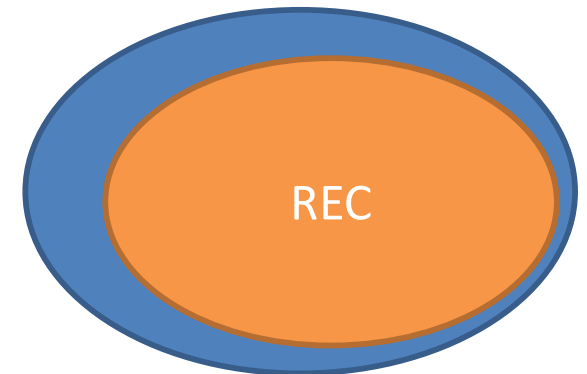
Main objective: to provide environmental, economic or social community benefits to its members or the local areas in which it operates, rather than to generate financial profits

Participation in various activities in the energy sector: production, sharing, storage, aggregation, etc.

Differences

CER : Renewable energy exclusively

CER : proximity criteria



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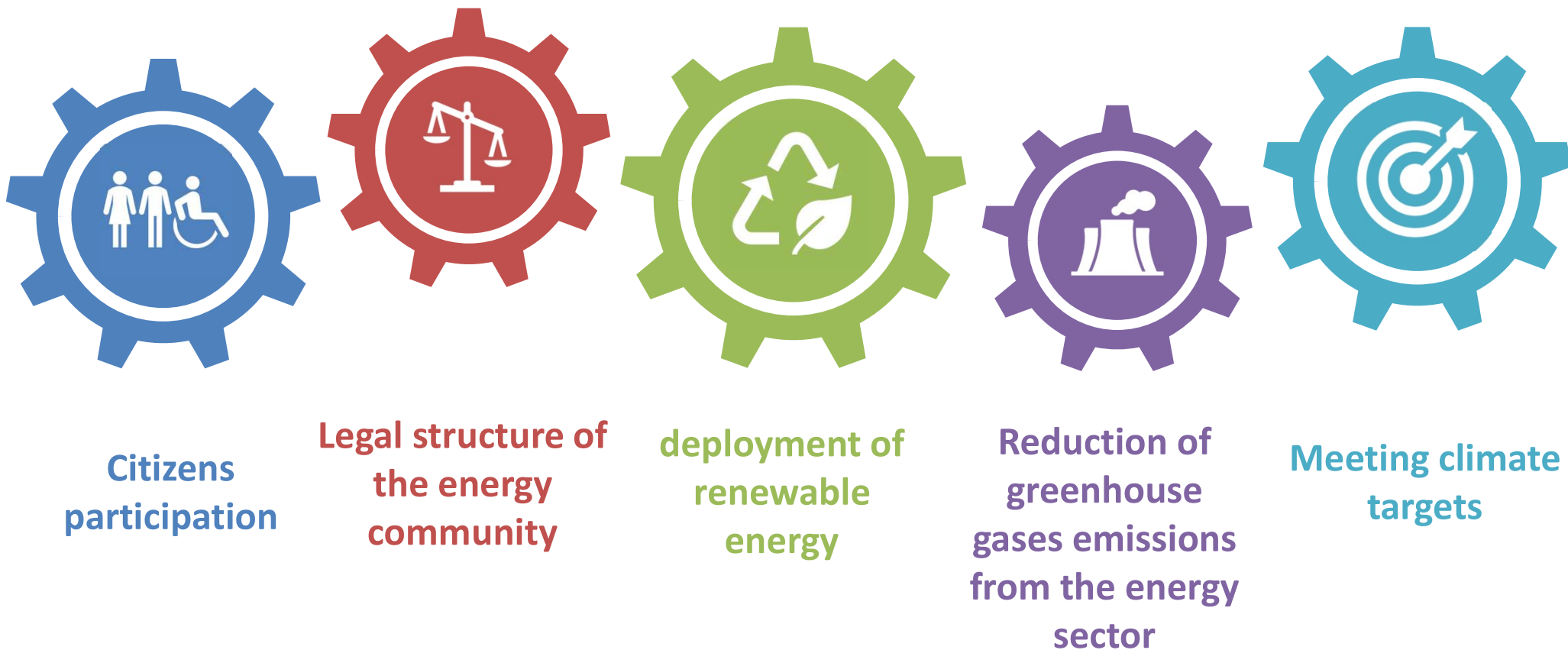


The EU legal framework for energy communities

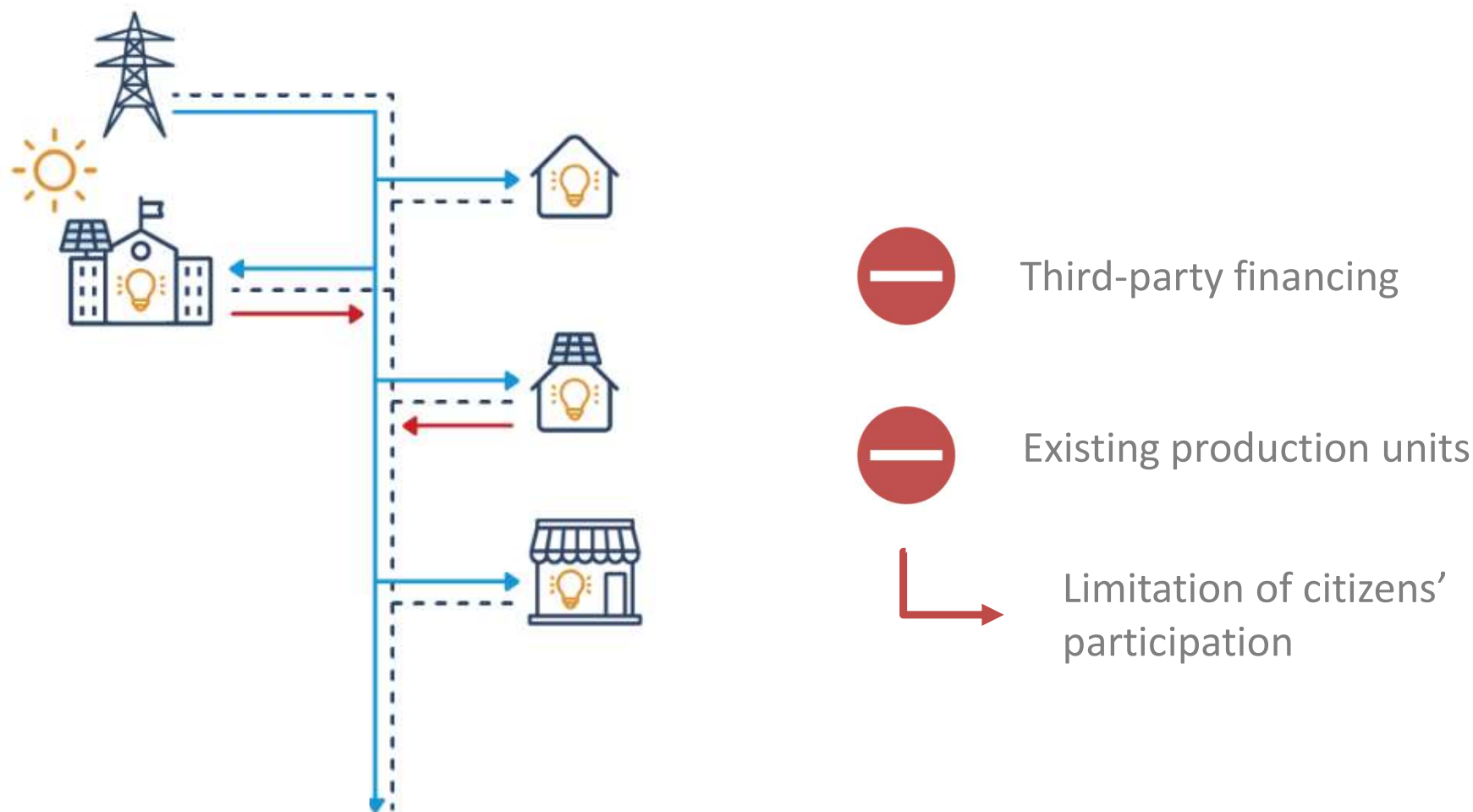


Energy communities – a driver for the social and ecological transition ?

Energy communities, a driver for the social and ecological transition ?



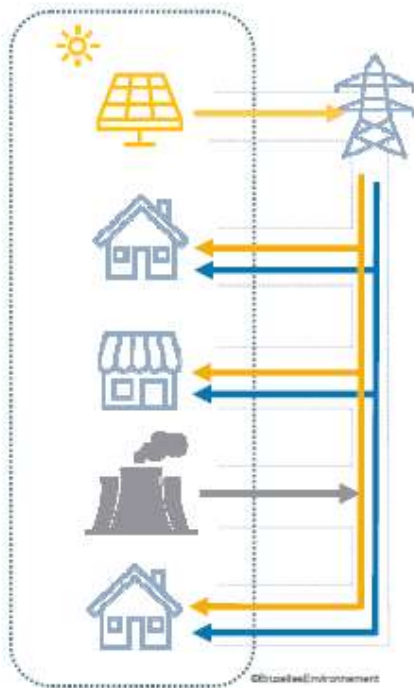
Ownership criteria for electricity sharing



Source : Bruxelles environnement

Ownership criteria for electricity sharing

Solution at **Flanders** level : broadening of the scope of energy sharing for CEC



Source : Bruxelles environnement

Separate legal entity

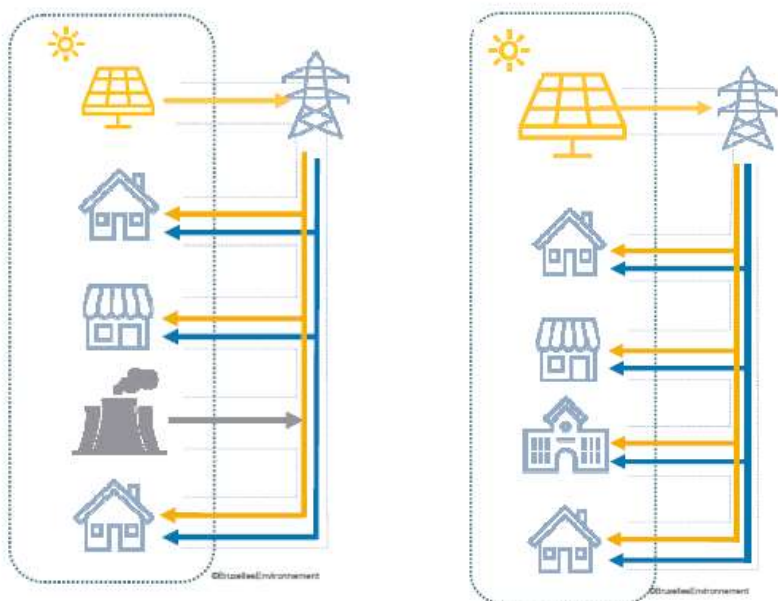
Members : any natural or legal person but controlled by individuals, local authorities or small businesses

Includes electricity from non-renewable sources

Electricity sharing if the community owns **or has user rights** to the production facilities

Ownership criteria for electricity sharing

Solution at **Walloon** level : broadening of the scope of energy sharing for both CEC and REC

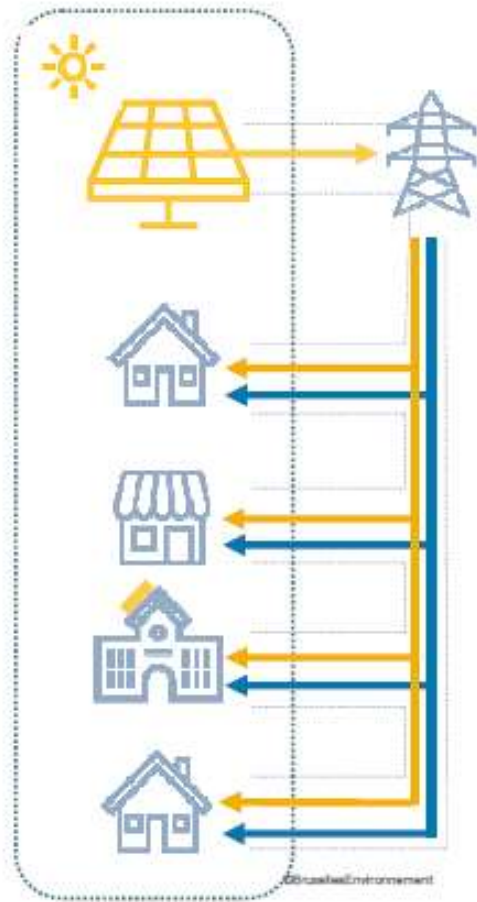


Electricity sharing if

- the community owns **or has user rights** to the production facilities, or
- The electricity is self-produced by a member of the community.

Ownership criteria for electricity sharing

Solution at the **Brussels** level : the local energy community (LEC)



Source : Bruxelles environnement

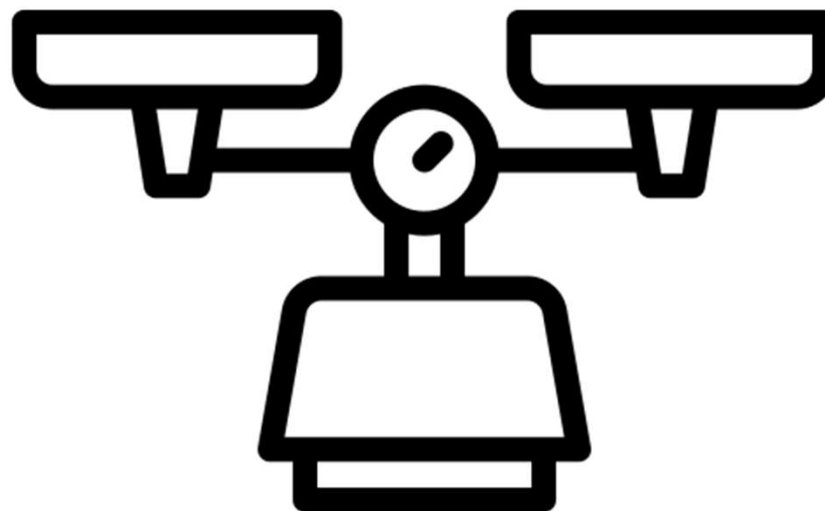
- Separate legal entity
- Members : individuals, SMEs or local authorities
- Exclusively renewable energy
- Electricity sharing if
 - the community owns the production facilities ; or
 - Either **one or more members** own the production facilities or have a **right of use** over them.

Ownership criteria for electricity sharing

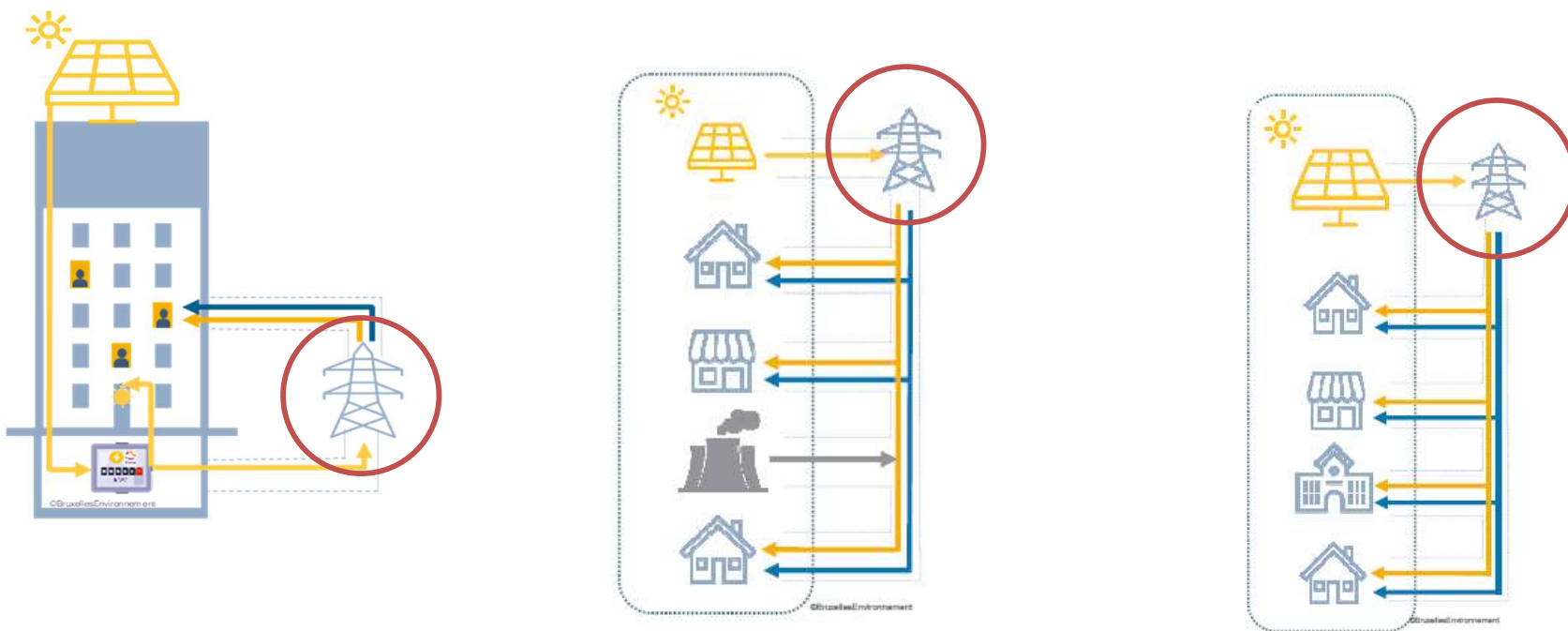
Complexification of
the framework

Opening to financial
actors

Increasing citizens'
participation



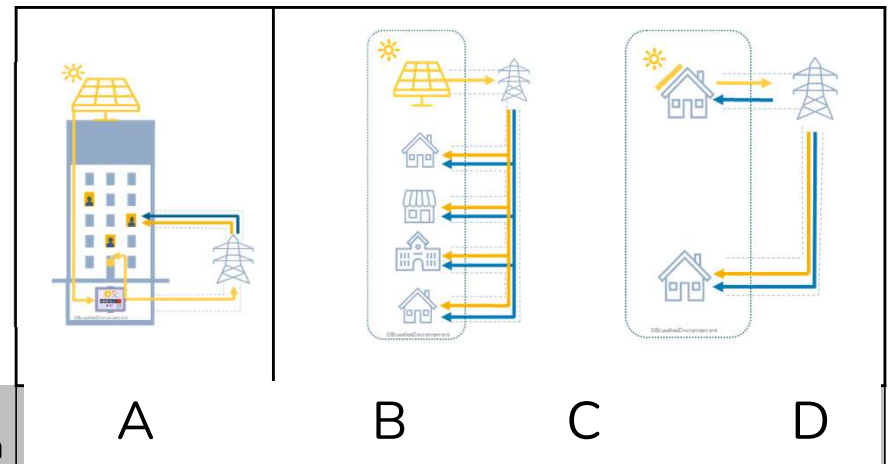
The question of network charges for energy sharing



Art. 22, para. 4, (d) IEMD “citizen energy communities are subject [...] to transparent, non-discriminatory and cost-reflective **network charges** in accordance with Article 18 of Regulation (EU) 2019/943, ensuring that they contribute in an adequate and balanced way to the overall cost sharing of the system”

The question of network charges for energy sharing

Brussels regulator tariffs decision for electricity sharing



	HTVA €/kWh	TVA	TTC €/kWh	A	B	C	D
Surcharges régionale	0,012319	6%	0,0131	0,0131	0,0131	0,0131	0,0131
Tarif transport	0,011262	6%	0,0119	0,0000	0,0000	0,0000	0,0119
Tarif d'utilisation du réseau heure pleine	0,049779	6%	0,0528	0,0000	0,0264	0,0528	0,0528
Tarif d'utilisation du réseau heure creuse	0,029869	6%	0,0317	0,0000	0,0158	0,0317	0,0317
Tarif OSP	0,011979	6%	0,0127	0,0127	0,0127	0,0127	0,0127
Cotisation fédérale	0,003474	0%	0,0035	0,0035	0,0035	0,0035	0,0035
Surcharges Elia	0,011735	6%	0,0124	0,0124	0,0124	0,0124	0,0124
Total €/kWh pleine	0,10055	-	0,10637	0,04167	0,06805	0,09443	0,10637
Total €/kWh creuse	0,08064	-	0,08527	0,04167	0,05750	0,07333	0,08527

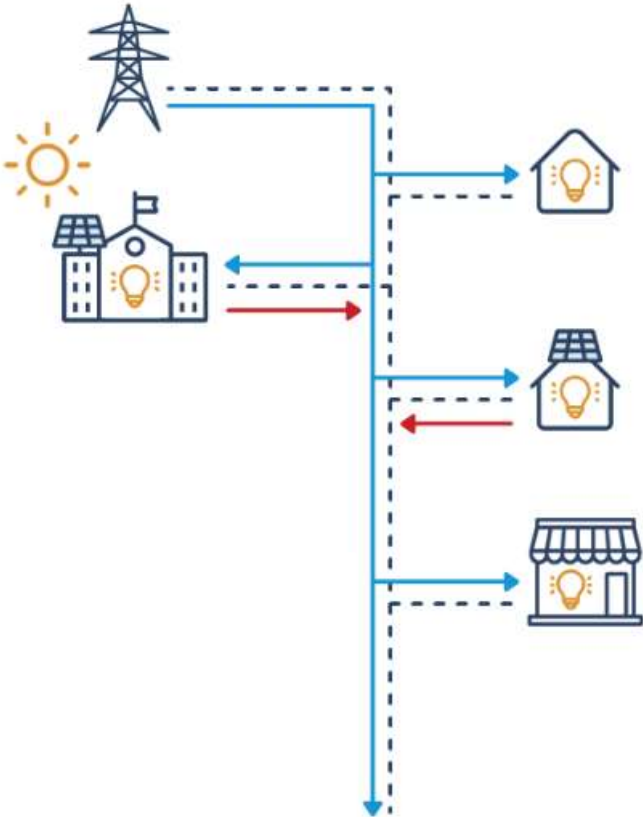
The legal status of energy community

Notification vs. Authorization

Region	Authorization	Notification
Flanders		X
Brussels	X	
Wallonia		
Creation of the community		X
Energy sharing	X	

The proximity criterion

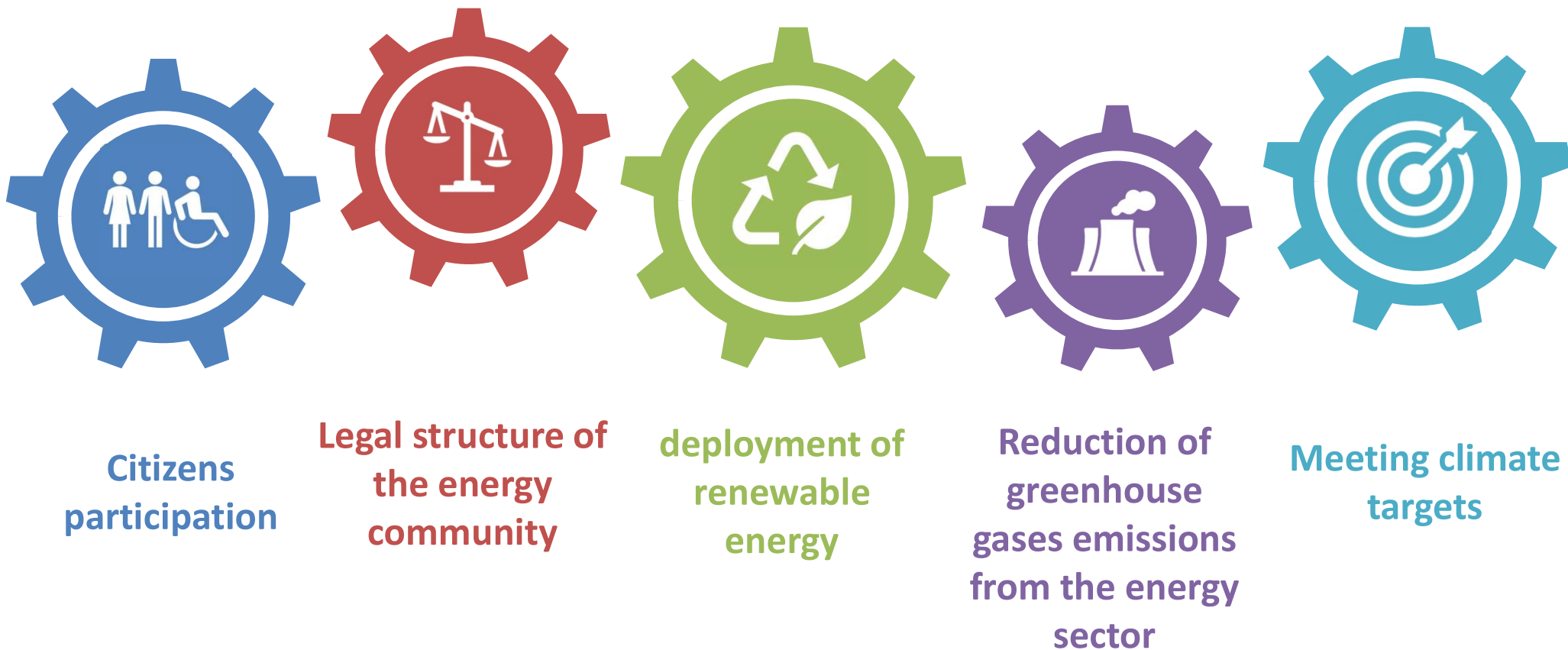
From



To



Energy communities, a driver for the social and ecological transition ?





Thank you for your attention!

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