



Clean Energy Package and Transposition

PIA 3
Online meeting
24 June 2020

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Agenda

- What does transposition mean and why is it important?
- How should the transposition ideally be done?
- What do the RED and EMD say with regards to “prosumer islands” and “interconnected communities”

New EU legislation: The « Clean Energy Package »

1. Recast of the Renewable Energy Directive (RED II)

- Renewables self-consumer
- Renewable energy communities

2. Recast of the Electricity Market Directive (EMD)

- Active consumer
- Citizens energy communities

3. Governance Regulation

- National Energy Action Plans (NECPs)



Citizens have now **the right** to

- generate,
- self-consume
- store and
- sell renewable energy,

and to participate in energy communities

The transposition process

- **EU Regulations** are imposed directly on member states, they don't need transposition, just implementation
- **EU Directives** need to be transposed (= translated) to national legislation.
- To that end, a **deadline** is given by EC
 - EMD by 31/12/2020; RED II by 30/6/2021
 - In case of delays, infringement procedure is started.
- **EC carries out a conformity check.**
 - However, sometimes implementation problems occur in lower-level legislation or regulation.

Why is a proper transposition of RED II and EMD important?

Several provisions are about **new** individual and collective **rights**.

If not well transposed, citizens cannot fully enjoy their new rights.



Early consulting of citizens is crucial.

As every MS has their own legislation,
the actual implementation needs to be followed, too



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Transposition Guidance for prosumer policies – published June 2020



Transposition Guidance for citizen energy policies

Recommendations to strengthen prosumers and energy communities when transposing the Clean Energy Package (RED II, EMD)

Objective: This paper aims to inform and facilitate the transposition and the implementation of the Renewable Energy Directive (RED II, 2018/2001) and the Electricity Market Directive (EMD, 2019/944) in combination with the Governance Regulation (GR, 2018/1999). It focuses specifically on the provisions regarding the newly established rights of citizens like self-consumption and energy communities. It provides recommendations to be applied when drafting national legislation and regulation; it addresses both policy makers and civil society advocacy groups.

The transposition of the RED and the EMD into national laws will provide opportunities to influence national policies towards a prosumer-centred Energy Union and strengthen citizens' rights. Most important is, however, that it needs to be ensured that national legislations match the Paris Agreement in its ambition, and that they are rigorously implemented and enforced over the next years. For both, implementation and enforcement, citizen engagement will be a crucial.

Transposition Timeline: Ideally, civil society representatives are already involved in the drafting process. We recommend a two-stage consultation process so that stakeholders are involved early on when all options are still available (1st consultation) and then when a more elaborate draft is available (2nd consultation). It is proposed to have parallel stakeholder consultations in September/October 2020 for both directives as decisions on the EMD transposition may impact the RED II transposition – especially since provisions on Citizen Energy Communities (defined in the EMD) are linked to the definition of Renewable Energy Communities (defined in the RED II), see Figure below.



Recommended transposition timelines for EMD and RED II with two-stage consultation

These timelines are proposed according to the principles of the Aarhus convention and Regulation 1367/2006.

The following table provides guiding answers to typical questions arising during the transposition process. It is important to get clarification early-on in the process, i.e. by summer 2020.

Note: We use the term "prosumer" for all kind forms of citizens active in the (renewable) energy field including but not limited to individual and shared self-consumption, energy sharing, generation or as members of RECs or CECs.

PROSEU - Prosumers for the Energy Union

Community Power Coalition

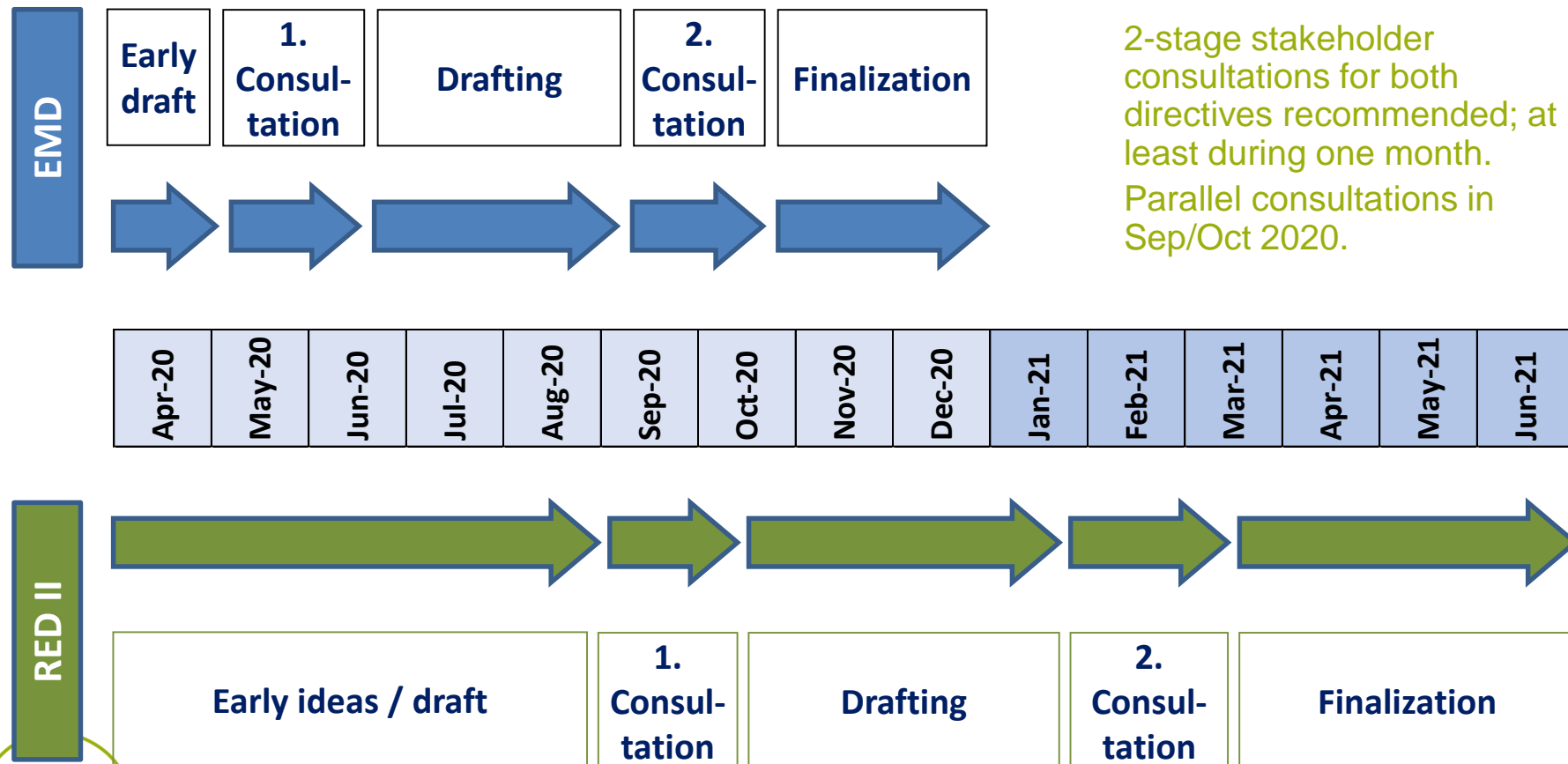
Issues	Recommended transposition
Citizen Energy Communities (CECs) and Renewable Energy Communities (RECs): How should they be defined in national legislation? (RED 2.16, EMD 2.11)	Ideally CECs and RECs are combined in one type of Energy Community to avoid confusion and to make it easier to explain. For instances any REC that deals with electricity would automatically be a CEC. In case the two concepts are kept, their definitions and relation should be coherent. Most important is that control by citizens is secured. Engagement of CECs in fossil fuel related activities should not be allowed. Existing energy communities – like energy cooperatives – should be allowed to continue in their present form unless their statutes or activities are clearly in contradiction to the spirit of the RED/EMD provisions. However, they may have to adapt to the stringent conditions for energy communities and in order to be considered as such. The legislation should make a clear distinction between the actor (the energy community) and the activities a community is allowed to lead. For instance, collective self-consumption must be possible without the need to establish a REC or CEC, and RECs/CECs can do more than collective self-consumption.
Local area: What does it mean? (RED 2.16, EMD 2.11)	It is suggested to contextualise the term "local", adapting it to what is nationally appropriate. For instance, large projects like a community owned wind park may require (financial and organisational) participation beyond a single municipality. However, it must be ensured that persons or companies that have their main residence or seat outside the municipality or province do not gain control within the REC/CEC. For collective self-consumption and district heating networks would be based on technical criteria where participants are connected to the same local (distribution) network. In buildings, the rights should pertain to those living in the building. Cooperative energy suppliers, like Som Energia in Spain with thousands of member across the country, are more a virtual community which could fall under the concept of CEC. They, too, would be required to ensure participation and control of local residents in new energy projects.
Barriers and potentials for RECs: How should they be assessed? (RED 22.3)	National governments are required by the RED to assess barriers and potential of Community Energy in their territories. This should take place as soon as possible, ideally by summer 2020. Without having a clear picture of the barriers, it will be difficult to define the appropriate measures and to design an adequate enabling framework. Ideally this exercise is extended to all forms of prosumption. The potentials and opportunities should include aspects beyond the energy sector, e.g. impact on jobs, climate change mitigation, local economy, and other benefits that RECs (and also CECs) can provide. The assessment studies should also clearly define through which concrete legislative or regulatory measures the barriers will be addressed and potentials be exploited. This includes setting of binding targets. These recommendations shall be implemented within the transposition deadlines.
Enabling framework for energy communities: How should it look like? How should RECs be promoted, also compared to other forms of commercial projects or organisations? (RED 22.4, 22.7, GR 20.6, 7)	Each national enabling framework needs to be based on the barriers and potentials identified. Key elements of an enabling framework would be: • Clear definitions • Targets and trajectories • Support schemes that are specifically designed for RECs • Preferential grid access for RECs • Lean administrative procedures, e.g. single point of contact for advice for projects throughout their development process, reduced licensing requirements, etc. • Responsibilities, governance and monitoring The exemptions of state aid guidelines allowing for support other than tendering for projects below 18 MW should be made use of. In case actions are applied, these should contain reserved capacities for RECs of at least 10%. RECs may bid as desired if they are willing to accept the clearing price. This way they don't have to worry on underbidding. However, ideally RECs would get specific tariffs for energy produced which could be set slightly higher than market prices (e.g. 0.5¢ or other forms) to reward value provided to the local economy.
Enabling framework for renewables self-consumers: What are the crucial points? (RED 21.6, 21.2.d)	This enabling framework would have basically the same elements as the one for energy communities; they may even be defined together to be fully coherent. Economic viability for self-consumption projects needs to be ensured: There should be a decent remuneration for excess energy which may need to be above market prices in order to make these projects bankable and allowing pay back times of around 10 years. The rate design requires sufficiently high variable parts of the retail tariffs so that self-consumption is made a viable option.

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Issues	Recommended transposition
Energy sharing or shared self-consumption: How should it be defined? (RED 21.6, 21.2.d)	Energy sharing or shared self-consumption should be easy enough so that prosumers are incentivised to make full use of their rooftops. There may be discounts on grid charges given. While a contribution to system costs through a reasonable connection charge, energy fed into the grid should not be charged to the generator – it must always be the goal to generate as much renewable energy as possible. Income taxes may be waived if revenues from energy generation stay below a certain amount. Other investment support schemes should be assessed.
New vs. adapting existing legislation: What is appropriate? (RED 21.6, 21.2.d)	Amendments can be appropriate in case there are dedicated laws related to RE which cover most RE-relevant aspects (like the German EEG). Prosumer-related topics will nevertheless require dedicated chapters to elaborate the concepts and define supporting measures. In other cases, new laws and regulations dedicated specifically to RECs/CECs and prosumers may be more adequate. There should be cross-referencing to other laws, e.g. the ones that deal with forms of legal entities, to be fully coherent. Laws approved by parliament are preferable to allow for more support and stability.
Targets: How should they be set? (Governance Regulation EC 2018/1999, Art. 20.3.a)	There should be binding targets expressed in MW and/or GWh for all types of prosumer projects, i.e. individual and collective self-consumption, generation as well as RECs and CECs. These targets should be binding and enshrined in law (e.g. a national Energy and Climate Law). Rooftop PV is a good indicator for local citizen engagement; moreover, for environmental reasons rooftop PV should be exploited to a maximum. A rooftop PV target should be defined at least up to 2030 and broken down in an annual trajectory. This target should be tracked in the following categories: • Individual self-consumption and exports to the grid • Collective self-consumption and exports to the grid, ideally a) within buildings and b) through the distribution/transmission grid • Projects built by RECs & CECs incl. self-consumption and export The rooftop PV target should be about 50% of the total identified potential (for potentials by MS, see EC REG 2018). This study found that "EU rooftops could potentially produce 880 TWh of solar electricity annually". MS should provide easily accessible online tools to identify suitable roofs and other already built infrastructure that could be used for PV/RES generation. Large and small RE projects initiated by RECs and CECs should have a specific target, defined as a share of total national RE target, e.g. 30-50%. The share of households being members of energy community should be at least 5% by 2030.
Monitoring of RECs/CECs and prosumers: How should their development be tracked? (GR Annex 1, part of RED)	There should be a clearly identifiable label for CECs and RECs so that they can be registered and their numbers and development can be recorded in statistics. This means they must be distinguishable from other forms of collaboration such as pure collective self-consumption, or other legal forms that don't comply with the REC/CEC criteria. CECs/RECs should have to register officially (e.g. by using existing processes like the ones of CCA in UK where cooperatives register). Their activities should be monitored to identify potential misuse of the concept. The number of involved citizens or households should be monitored, too. Their activities should be collected, and especially RE production measured (see also targets below). Individual and collective self-consumption projects should also be monitored to track their uptake.
Implementation: How to ensure that targets are achieved? (RED 21.6, 21.2.d)	The actual implementation and the achievement of targets and measures should be monitored and published on an annual basis. Targets and measures should be broken down to regions and municipalities because the actual implementation lies often at the local level (permitting, etc.). Each administrative level should become energy accountable, at least to a certain degree, which may require a shift in energy competencies towards the local/regional level. All levels should track, report and benchmark their numbers annually (e.g. through Covenant of Mayors). National statistics offices need to be enabled to track the numbers annually. The EC should ensure that numbers are comparable across all MS. In case targets are not met, corrective actions shall be taken involving citizens.
Energy sharing: How should it be defined? (RED 21.6)	Energy sharing and self-consumption should be allowed – as foreseen by the RED – beyond a building or premise, i.e. it should be possible through the distribution grid, ideally over distances of several kilometres (France allows 20m, Spain only 500m). It should be possible to organise energy sharing as shared self-consumption but not necessarily; other options should be possible (like peer-to-peer trading etc.). Market developments in this

Suggested timelines for transposition of EMD and RED II, applying principles of Aarhus convention





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- How should the transposition ideally be done?
- What do the RED and EMD say with regards to “prosumer islands” and “interconnected communities”

EU laws: islands v. integrated systems?

- Energy communities & their specificity
- Coherence between RECs and CECs
- Energy sharing, selling & storage
- Access to energy markets
- Commercial energy services
- Contribution to the energy system costs

Rights to share, sell, store

- Rights under the EU law
- Of the same value
- No/little description
- To be shaped by MS

Art. 22.2.a-b RED II, Art. 2.11 & 16.3.e & recital 46 IEMD;

Art. 22.4.c RED II & Art. 16.1.d IEMD (help by DSOs)

Right to access energy markets

- General right for communities of **access on a non-discriminatory basis to all suitable markets**
- Individual/through third party
(Art. 22.2.c RED II, Art. 16.3.a IEMD)
- Wholesale markets (Art.3.4 IEMD)
- Day-ahead & intraday market (Art.7.2.h IEMR)
- Balancing market (Art.6.1.c IEMR)

Right to access energy markets

- In all markets: rules to provide equal access & level playing field

Recital 46 IEMD – level playing field

- Standards & procedures necessary (transposition & implementation)

Art. 32.1-2 IEMD – on market standards and regulatory frameworks setting

Energy services

- Energy supplier, aggregation, other commercial services... (Art. 22.4.c RED II)
- Distribution, supply, aggregation, energy efficiency services, charging services for electric vehicles etc... (Art.2.11.c IEMD)
- Management of distribution networks (Art. 16.2&4 IEMD)

Contribution to energy system costs

- Contribution to the overall cost sharing of the system
- Adequate, fair and balanced way
- In line with a transparent cost-benefit analysis (Art. 22.4.d RED II – RECs; Art. 16.1.e IEMD)
- Costs to take into account both costs & benefits to the system the REC's and CEC's activities entail.



Thank you for your attention!

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<http://www.fundacionfin.es/congreso-navarra-autoconsumo-generacion-energia/>



This project received funding from the EU's Horizon 2020 research and innovation programme under grant agreement N°764056. The sole responsibility for the content of this document lies with the authors. It does not necessarily reflect the opinion of the EU.

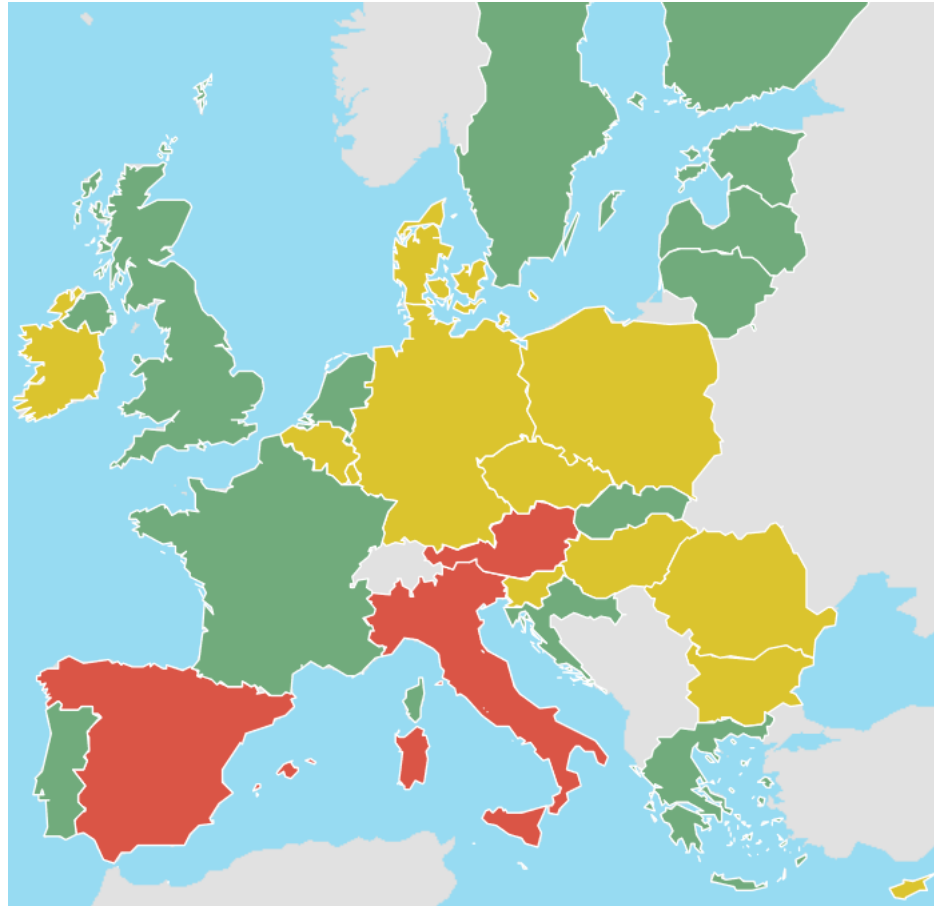
Aarhus convention

- Participatory governance rights
 - Right of access to information
 - Public participation right
 - Right of access to justice
- Public participation
 - consultations should happen when options are still open
 - they should provide sufficient timeframes
 - and their results shall be taken into account

Agenda

- What does transposition mean?
- How is transposition done in practice?
- How should the transposition ideally be done?
- Proposed timelines and next steps
- Discussion

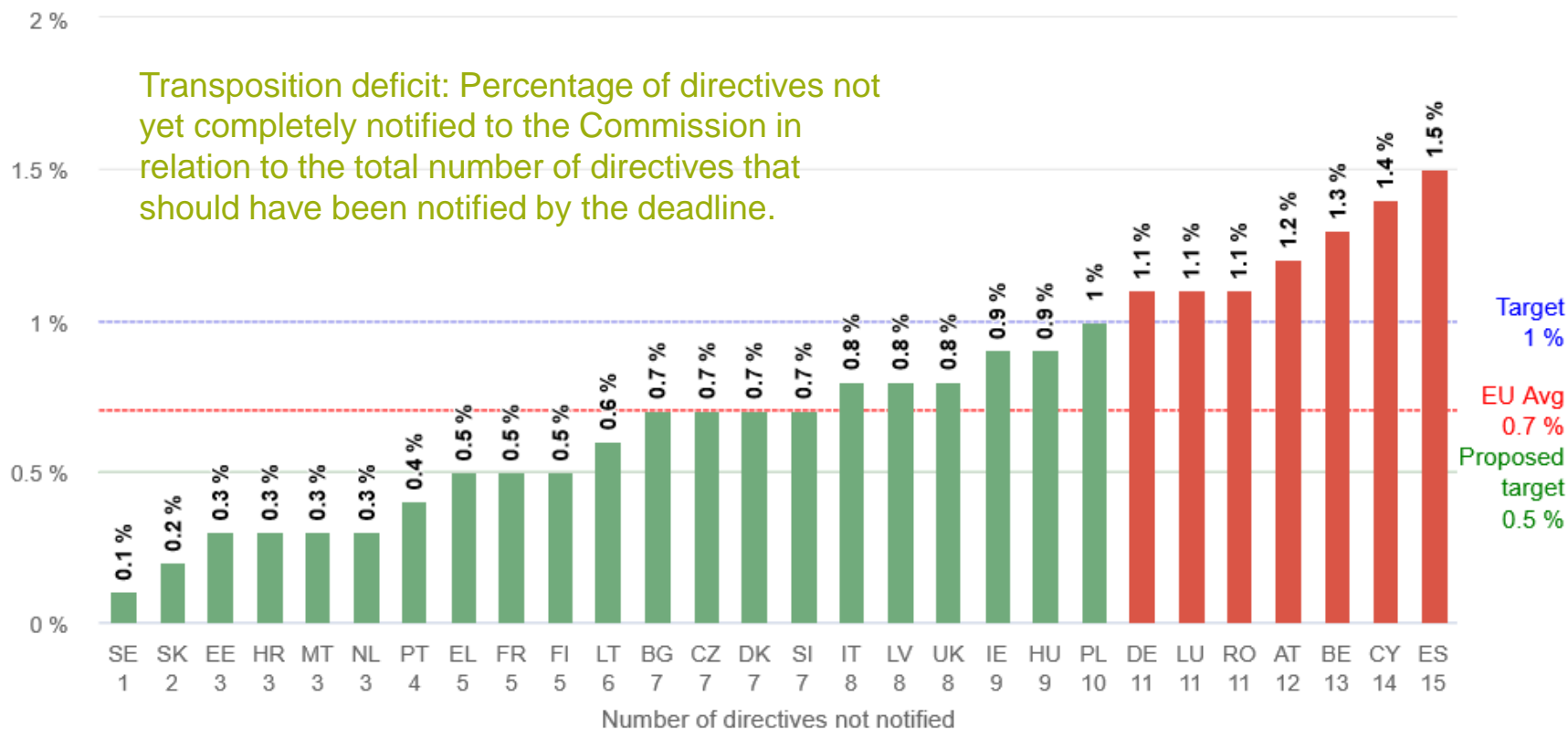
General Transposition Performance of Member States is quite divers (status December 2018)



Source: EC 2019 https://ec.europa.eu/internal_market/scoreboard/performance_by_governance_tool/transposition/index_en.htm

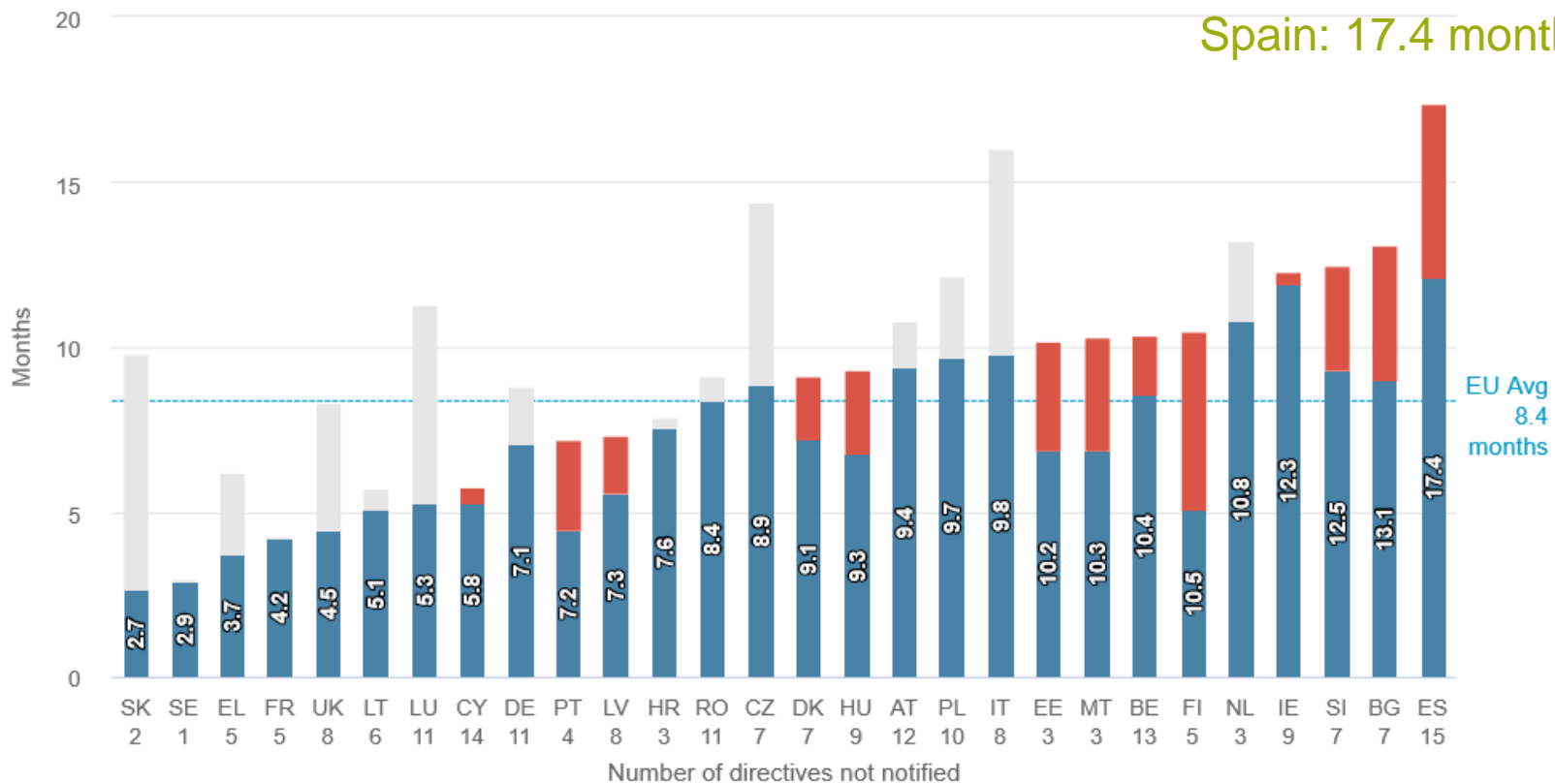
Transposition deficit: 7 Member States exceed the 1% target

Transposition deficit of Member States as of 10 December 2018



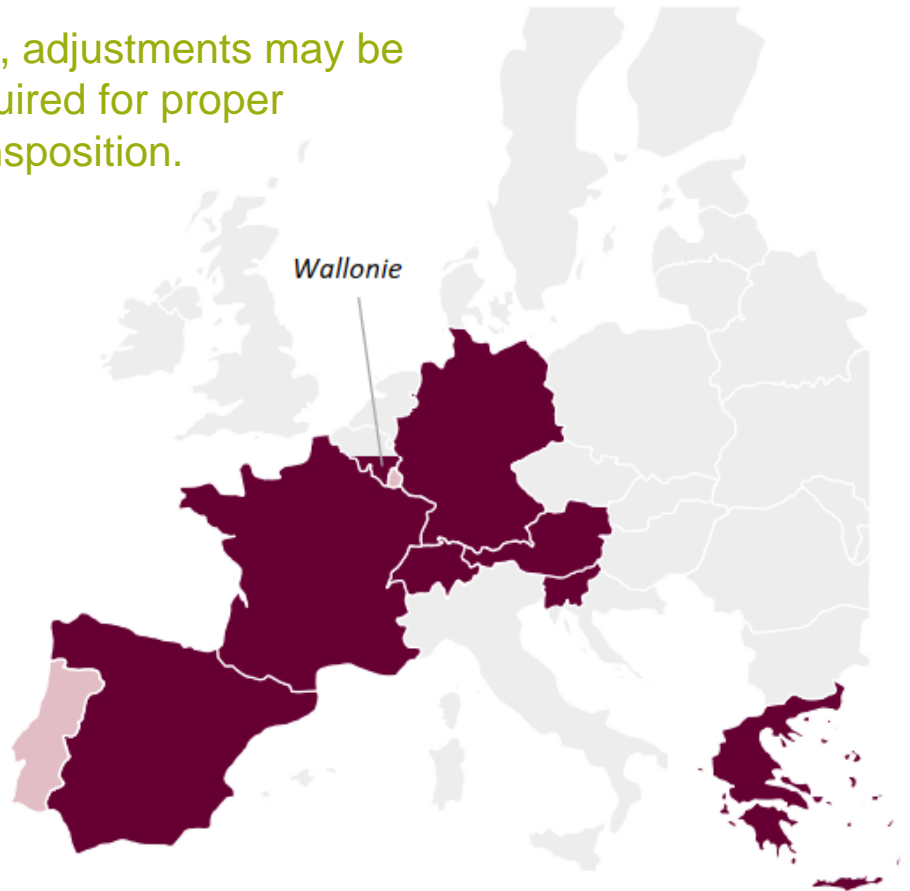
Transposition delays: Outstanding directives are late by an average of 8.4 months

Indicator [4]: Total transposition delays






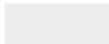
Different starting points: In 2019, nine MS had legislation on collective self-consumption in place

Still, adjustments may be required for proper transposition.



By contrast: Individual self-consumption models already exist in most countries.

Collective self-consumption not to be confused with energy communities!

-  Pays ou régions ayant adopté un cadre réglementaire spécifique à l'ACC
-  Pays ou régions ayant adopté un cadre réglementaire sur les « communautés d'énergie locales »
-  Pays en cours de législation : PT & LUX
-  Pas de législation

Source: Sia-Partners France 2019_Enerplan_Energy-Lab_Autoconsommation-collective_VF-1

Examples: How DE and ES may transpose RED II and EMD

Germany

- RED II: Likely amendments to **EEG**
- EMD: Potentially amendments to Energiewirtschaftsgesetz - **EnWG**
- RECs/CEC: tbd if changes in e.g. **Genossenschaftsgesetz** are required

Spain

- RED II: Amendments to **Royal Decree Law 12/2018** and **Royal Decree 244/2019**; maybe new “**Ley Orgánica**” on rights?
- EMD: Amendments to **Law 24/2013** of the Electricity Sector
- RECs/CECs – tbd if changes in e.g. **Law on Cooperatives 27/1999** or in the laws on cooperatives of the Autonomous Regions