



**“I participate. You participate. He participates. We participate. You participate. Do they profit?” Brief reflections on the forms of citizen participation according to the Directive (EU) 2019/944 on the internal market of electricity and the Directive (EU) 2018/2001 on renewable energy sources**

Cecília Bojarski Pires\*

*ABSTRACT: This article aims to identify the primary forms of citizen participation within the European energy regulatory framework, focusing on decentralised energy production and its intersection with the right to the city and environmental, climate, and energy-related concerns. The article is structured in two sections. The first section addresses the rise of the right to the city, tracing its emergence as a category within urban sociology until its legal recognition as a human right, which guarantees the fruition of urban rights and the promotion of democratic participation in the construction of the urban model. It also analyses the urban phenomenon as a result of the expansion of the urban fabric and a way of life supported by a model of entrepreneurship and commodification of cities. In the second section, there is a brief contextualisation of the development of European energy policy, and it identifies the forms of citizen participation outlined in the Directive (EU) 2019/944 on the Internal Electricity Market, and the Directive (EU) 2018/2001 on Renewable Energy Sources, especially the Citizen Energy Communities (CEC) and Renewable Energy Communities (REC). Finally, the article highlights some risks that should be considered to ensure that market interests do not co-opt mechanisms of citizen participation in the energy sector to the detriment of promoting the right to the city.*

*KEYWORDS: Right to the city – citizen participation – energy market – energy transition – decentralised energy production.*

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\* Masters in Constitutional Law and PhD candidate in Law at University of Minho School of Law. FCT scholarship holder - 2023.01072.BD

## Introductory remarks

The title of the article refers to one of the most emblematic French slogans of May 1968: “*I participate, you participate, he participates, we participate, you participate, they profit.*” Simultaneously, it provides a synthesis of concerns among urban researchers with a critical perspective: the imperative need to realise the right to the city to prevent cities from being regarded as commodities but rather as spaces for the fruition of rights.

The right to the city is a sociological category formulated and introduced by Henri Lefebvre in 1968. Its primary objectives are to ensure access to urban rights for all inhabitants and to guarantee an urbanisation model grounded in the principles of urban democracy. In this sense, there is a strong emphasis on the inclusive and concrete participation of inhabitants in city management.

Moreover, it addresses the need to develop a “*distinctive, novel and human*”<sup>1</sup> urban model that, for its implementation, must confront what constrains its realisation.

Two intertwined issues emerge as significant consequences of the current urban model: the environmental climate crisis and the energy issue. This stems from the fact that “*energy usage is linked to high levels of greenhouse gas (GHG) emissions*”<sup>2</sup> and has been exacerbated by industrialisation and the proliferation of a predatory urban model stemming from the expansion of the urban fabric.

With the emergence of a new urban model and its implications for economic and social development, the energy issue has gained prominence in Europe. Nevertheless, this subject has already received attention due to the imperative to reduce European dependence on external energy sources, a concern that intensified because of the Russian invasion of Ukraine.<sup>3</sup>

As a result, there has been a strengthening of the core objectives of the European Union’s (EU) energy policy as delineated in the “*Energy Union Strategy*”<sup>4</sup> through the updating of energy packages and the European regulatory framework in the energy sector. Consequently, citizens<sup>5</sup> now play an even more central role,

<sup>1</sup> Excerpt freely translated by the author. Original version: “Diferente, novo e humano”. See Peter Marcuse, “Os direitos na cidade e o direito à cidade”, in *Cidades para todos: propostas e experiências pelo direito à cidade*, ed. Ana Sugranyes and Charlotte Mathivet (Santiago: Habitat International Coalition, 2010), 95.

<sup>2</sup> Excerpt freely translated by the author. Original version: “O uso da energia está associado a um nível elevado de emissões de gases com efeito de estufa (GEE)”. See Isabel Azevedo, “A dimensão europeia das comunidades de energia”, in *Comunidades de Energia Renovável*, ed. João Crispim and José Gomes Mendes (Braga: UMinho Editora, 2023), 24.

<sup>3</sup> “In February 2022, the Russian invasion of Ukraine altered the timeline of the energy framework revision. The weaponisation of Russian gas and oil exports and the following energy market disruptions provoked a rapid reaction by the European Union”, “Energy polices: general principles”. See European Parliament, “Energy polices: general principles”, accessed July 19, 2023, <https://www.europarl.europa.eu/factsheets/en/sheet/68/politica-energetica-principios-gerais>.

<sup>4</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the regions and the European Investment Bank, *A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy* (COM/2015/080).

<sup>5</sup> While the directives themselves do not explicitly define the concept of a citizen, we can derive this definition from the implications of Articles 9 of the Treaty on European Union (TEU) and Article 20 of the Treaty on the Functioning of the European Union (TFEU), as well as Marshall’s paradigm. In this context, we assume that a citizen is an individual who holds a legal connection with a Member State of the EU. This connection endows them with both rights and responsibilities, enabling their active participation in political and democratic processes within the legal framework of the relevant Member State and the EU.

and should increasingly be at the forefront of energy concerns, taking ownership and actively participating in the energy market.

The energy sector is organised into various categories: oil and fuels, electricity, natural gas, and the specialised domains related to renewable energy and energy efficiency.<sup>6</sup> However, this article's primary focus lies in the fields of electricity and renewable energy sectors.

As a result of the “*European Green Deal*”,<sup>7</sup> and particularly, the “*Clean Energy Package for all Europeans*”,<sup>8</sup> the Directive 2019/944<sup>9</sup> regarding the Internal Market for Electricity and the Directive 2018/2001<sup>10</sup> related to Renewable Energy have gained prominence. These Directives provide tangible means for active/direct citizen participation in the energy market, particularly in the electricity sector, and in energy transition, with a strong emphasis on the utilisation of renewable energy sources.

In this context, one of the objectives of these initiatives is to provide citizens with opportunities to participate in diversifying energy supply sources. This participation has a substantial impact on the energy market and aids in achieving climate goals while reducing energy dependence.

Thus, it is expected that citizens will assume the role of active customers by participating in all forms of demand response. Additionally, as part of the decentralised energy production efforts, they should have the ability to act as self-consumers within the framework of the Citizen Energy Communities (CEC) and the Renewable Energy Communities (REC).

At least initially, it is possible that these Directives have the potential to work in partnership with the promotion of the right to the city, especially in terms of advancing urban rights, notably the right of access to energy. They can also play a role in implementing measures to challenge the dominance of the energy system by the market forces, with the active involvement of citizens. This is a fundamental step in addressing the challenges associated with the urban phenomenon.

Considering the hypothesis presented, the following problems or questions arise: Do the forms of citizen participation outlined in European energy policies, particularly within the framework of the Directives mentioned above, truly position citizens at the core of energy concerns? Do they provide them with a real opportunity to take ownership of the energy transition<sup>11</sup> and actively participate in the energy market? Occasionally, under the pretext of mitigating urban issues, do these initiatives

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<sup>6</sup> Suzana Tavares da Silva, *Direito da Energia* (Coimbra: Coimbra Editora, 2010). Felipe Matias Santos, “Tendências recentes do direito administrativo: a regulação das comunidades de energia (e do autoconsumo coletivo) e a descarbonização do setor de gás natural”, *E-pública, Revista Eletrónica de Direito Público*, vol. 8, no. 1 (2021): 271-283, accessed September 19, 2023, <https://e-publica.pt/article/34179-tendencias-recientes-do-direito-administrativo-da-energia-a-regulacao-das-comunidades-de-energia-e-do-autoconsumo-coletivo-e-a-descarbonizacao-do-se>.

<sup>7</sup> EUR-Lex, “European Green Deal”, accessed July 19, 2023, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52019DC0640>.

<sup>8</sup> European Commission, “Clean Energy for all Europeans package”, accessed July 19, 2023, [https://energy.ec.europa.eu/topics/energy-strategy/clean-energy-all-europeans-package\\_en](https://energy.ec.europa.eu/topics/energy-strategy/clean-energy-all-europeans-package_en).

<sup>9</sup> Directive (EU) 2019/944 of the European Parliament and the Council, of 5 June 2019, on common rules for the internal market for electricity and amending Directive 2012/27/EU (recast).

<sup>10</sup> Directive (EU) 2018/2001 of the European Parliament and the Council, of 11 December 2018, on the promotion of the use of energy from renewable sources (recast).

<sup>11</sup> The energy transition needs the shift towards energy production from renewable primary sources. This transition involves utilising inexhaustible natural resources, in contrast to fossil sources that are limited on the planet and cause environmental damage.

exacerbate these same issues and foster a model of urban entrepreneurship that relies on creating new market niches by exploiting the urban way of life?

In this regard, the primary objective of this article is not to offer definitive answers to the questions raised earlier, but rather to identify the fundamental modes of citizen participation outlined in the European regulatory framework in the field of energy. It will be based on an analysis of the European Directive (EU) 2019/944 on the Internal Electricity Market and Directive (EU) 2018/2001 on Renewable Energy. Additionally, drawing from elements of the right to the city and the discourse surrounding the urban phenomenon, it aims to provide initial insights that may contribute to addressing the highlighted issue.

However, it is important to note that the subject presented here forms a part of the author's doctoral thesis. Consequently, this paper serves the purpose of introducing the research proposition and theoretical framework, addressing only one aspect of the ongoing work.

The text is warranted by the pressing need for the energy transition and the concerted efforts of EU Member States to undertake decentralised energy production initiatives.

The innovation of the approach lies in the fact that the right to the city stems from a critical and interdisciplinary perspective, which is rarely considered in its various dimensions by law research. Furthermore, the issues raised are pertinent when analysing the challenges caused by the current urban model.

The analysis of the aforementioned Directives is significant because these Directives primarily centre around the energy issue. This is crucial not only as an urban right but also because of its potential to influence the urban phenomenon. This stems from the strategic importance of energy in the urbanisation process and their relevance in environmental, economic, social, and political dimensions.

As for the methodology, the research is qualitative and interdisciplinary, with a juridical-sociological profile involving inductive and deductive reasoning. Primary sources used include books and articles from the fields of Law, Politics, Sociology, and Urban Planning, as well as documents related to the European regulatory framework for energy, specifically the Directives (EU) 2019/944 on the Internal Electricity Market and (EU) 2018/2001 on Renewable Energy Sources.

The documentation will be analysed using the methodology of literature review and document analysis.

This article is structured into two sections. The first section is subdivided into two parts. The first part addresses the rise of the right to the city, tracing its emergence as a category within urban sociology until its legal recognition as a human right, which guarantees the fruition of urban rights and the promotion of democratic participation in the construction of the urban model. The second part analyses the urban phenomenon as a result of the expansion of the urban fabric and a way of life supported by a model of entrepreneurship and commodification of cities.

In the second section, the paper provides a brief contextualisation of the development of European energy policy and proceeds to identify the forms of citizen participation outlined in the Directive on the Internal Electricity Market and the Directive on Renewable Energy Sources, with a focus on decentralised energy production initiatives, particularly Renewable Energy Communities (REC). Additionally, from the critical perspective of the right to the city and the urban phenomenon, and without claiming to provide conclusions, we present our reference

framework to be used to assess the implementation of citizen participation outlined in the European energy regulatory model.

## 1. The right to the city: from urban rights to the urban phenomenon

### 1.1. The rights in the cities or the urban rights

The right to the city was introduced as a category in urban sociology by the philosopher and sociologist Henri Lefebvre in 1968 in the work originally titled “Le Droit à la Ville”.<sup>12</sup> Due to the historical context of its introduction, it was initially presented as more of a slogan and later elaborated upon by Lefebvre and other scholars from various fields of knowledge.

In this regard, Claudio Carvalho and Raoni Rodrigues assert that: “*urban settings are perfect examples of how a single phenomenon can be the subject of diverse branches of knowledge*”.<sup>13</sup> The construction of the right to the city involves numerous intertwined elements that Legal Sciences may address. It is crucial to understand that it was shaped as a “*demand*”,<sup>14</sup> a kind of antidote capable of returning urban spaces to their inhabitants and promoting the fulfilment of different rights. It is the “*right to urban life, transformed and reformed*”.<sup>15</sup>

Therefore, Lefebvre advocates the need to develop a political programme capable of providing a new urban model. However, such a programme must be committed to the aspirations and rights of the inhabitants and should not be co-opted by external interests, particularly private ones. For this, the exercise of urban democracy must be ensured: “*Only the social force capable of investing itself in the urban, through a long political experience, can take charge of realizing the program concerning urban society*”.<sup>16</sup>

Lefebvre did not conceive the right to the city as a right in its legal sense<sup>17</sup> but as a “*moral demand based on principles of justice*”,<sup>18</sup> with a robust critical dimension that sought primarily to understand the reasons behind the urban phenomenon. Edésio Fernandes,<sup>19</sup> when analysing Lefebvre’s work entitled “*Du contrat de citoyenneté*”,<sup>20</sup> understood that the author recognised the legal character of the right to the city when he advocated for it to be admitted as a political human right, allowing the expansion of citizenship rights and deepening democratic participation.

<sup>12</sup> English translation as *The Right to the City*, 1996. See Henri Lefebvre, Eleonore Kofman (ed.), Elizabeth Lebas (ed.), *Writings on Cities* (Wiley-Blackwell, 1996).

<sup>13</sup> Excerpt freely translated by the author. See Claudio Carvalho and Raoni Rodrigues, *O Direito à Cidade* (Rio de Janeiro: Lumen Juris, 2016), 2.

<sup>14</sup> Excerpt freely translated by the author. See Henri Lefebvre, *O Direito à Cidade*, trans. Jair Pinheiro (São Paulo: Centauro, 2001), 117.

<sup>15</sup> Lefebvre, *O Direito à Cidade*, 116.

<sup>16</sup> Excerpt freely translated by the author. Original version: “Apenas a força social capaz de se investir a si mesma no urbano, no decorrer de uma longa experiência política, pode se encarregar da realização do programa referente à sociedade urbana”. Lefebvre, *O Direito à Cidade*, 116.

<sup>17</sup> Peter Marcuse, “Reading the Right to the City. Part two: Organisational realities”, *City*, 18:2 (2014): 101-103, accessed July 24, 2023, doi: 10.1080/13604813.2014.896646.

<sup>18</sup> Excerpt freely translated by the author. Original version: “Demanda moral fundada em princípios de justiça”. Marcuse, “*Reading the Right*”.

<sup>19</sup> Edésio Fernandes, “Constructing the ‘Right to the City’ in Brazil”, *Social & Legal Studies*, 16:201 (2007): 201-219, accessed July 24, 2023, doi: 10.1177/0964663907076529.

<sup>20</sup> Henri Lefebvre, *Du contrat de citoyenneté* (Paris: Syllepse/Périscope, 1990).

Peter Marcuse<sup>21</sup> distinguishes the right to the city from the rights in the cities. For the author, rights such as housing, clean water, energy, ecologically sustainable environment, participation, employment, and education, among others, align with the demand for the right to the city but are not synonymous with it. Enzo Bello and Mariana Dias Ribeiro<sup>22</sup> refer to the “rights in the cities” as urban rights and identify them as a component of the right to the city, but not as being equivalent to it. However, “Lefebvre’s definition of the right to the city combines the interest in current city rights and the form of a new alternative city. Different meanings that mutually reinforce”.<sup>23</sup>

According to Cláudio Carvalho and Raoni Rodrigues, it is an “innovative fundamental right linked to the conditions of dignifying human existence, equality, freedom, and a comprehensive right, carrying within it the content of the main social rights”.<sup>24</sup> Hence, the right to the city appears to combine the satisfaction of plural specific rights, particularly of a social and collective nature, with the construction of a new urban model based on the exercise of urban democracy through citizen participation, which, in line with the proposal by Sherry Arnstein,<sup>25</sup> should provide citizens with adequate levels of decision-making power (citizen power) and overcome non-participation and minimal concession of power.

Despite being introduced in 1964, the discussion on the right to the city remains current and relatively unexplored, particularly within Law. This is because, even though it can be understood from a legal standpoint, the right to the city was only officially acknowledged in a Public International Law document at the Habitat III Conference, which took place in Quito in 2016.<sup>26</sup> The journey to its recognition was challenging.

After the approval of the “Estatuto da Cidade” (City Statute)<sup>27</sup> in Brazil during the II World Social Forum in 2002, a draft for a “World Charter for the Right to the City”<sup>28</sup> was presented. This document was a collective effort with contributions

<sup>21</sup> Marcuse, “Os direitos”, 92.

<sup>22</sup> Enzo Bello and Mariana Dias Ribeiro, “O Direito à Cidade e os Novos Direitos Urbanos como Direitos Humanos e Direitos Fundamentais”, in *Curso de Direito à Cidade*, ed. Enzo Bello e Rene Keller (Rio de Janeiro: Lumen Juris, 2023), 231-252.

<sup>23</sup> Excerpt freely translated by the author. Original version: “A definição do direito à cidade por parte de Lefebvre combina o interesse tanto pelos direitos na cidade atual como a forma de uma nova cidade alternativa. Significados diferentes que se afirmam mutuamente”. Marcuse, “Os direitos”, 94.

<sup>24</sup> Excerpt freely translated by the author. Original version: “Inovador direito fundamental ligado às condições de dignificação da existência humana, da igualdade, da liberdade, sendo também um direito continente, que carrega dentro de si conteúdos dos principais direitos sociais”. Carvalho and Rodrigues, *Direito à Cidade*, 3.

<sup>25</sup> Sherry Arnstein, “A Ladder of Citizen Participation”, *Journal of American Planning Association*, vol. 35, no. 4 (1969): 216-224.

<sup>26</sup> Betânia Alfonsin, “Repercussões da Nova Agenda Urbana no Direito Público e Privado no Brasil e na América Latina: o papel do Direito à Cidade”, in *Curso de Direito à Cidade*, ed. Enzo Bello and Rene José Keller. (Rio de Janeiro: Lumen Juris, 2019), 217-230.

<sup>27</sup> Brazil was the first country in the world to enshrine the right to the city in its legal framework, even though it was not explicitly mentioned. However, it incorporated the theoretical body of knowledge about urban issues into its constitutional law, specifically in Articles 182 and 183 of the Constitution of the Federative Republic of Brazil. After 11 years of advocacy and mobilisation, the regulation of the constitutional chapter on Urban Policy was achieved through the promulgation of the “Estatuto da Cidade” (City Statute, 10.257/01). This statute is committed to the principles of the social function of the city and property. Alfonsin, “Repercussions of the New Urban Agenda in Public and Private Law in Brazil and Latin America: the role of the Right to the City”, 217-230.

<sup>28</sup> Carta Mundial pelo Direito à Cidade, 2002, accessed July 24, 2023, <http://www.polis.org.br/uploads/709/709.pdf>.

from different social movements working to enforce urban rights and promote universal participation. It served as an advocacy tool within the United Nations to strengthen the recognition of the right to the city as a human right.<sup>29</sup> In its Article 1,<sup>30</sup> the draft provided a comprehensive definition of the concept.

During the formulation of the New Urban Agenda, a working group, Policy Unit No. 1 (*“The Right to the City and Cities for All”*) deliberated on the right to the city as a new paradigm for conceiving cities. The New Urban Agenda referred to it as a shared vision of a city for everyone, encompassing present and future generations.<sup>31</sup>

Furthermore, a range of rights, including the right to popular participation and the democratic governance of cities, were recognised throughout the document, particularly in Article 13, section “b”, which also emphasised the inclusive involvement of inhabitants.<sup>32</sup> From this viewpoint, the right to the city comprises distinct dimensions that complement each other.

Even if it is not the intention to provide a state-of-the-art analysis regarding the right to the city on an international or EU level, it can be inferred that the

<sup>29</sup> Alfonsin, “Repercussões da Nova Agenda Urbana no Direito Público e Privado no Brasil e na América Latina: o papel do Direito à Cidade”, 223.

<sup>30</sup> “Article 1. The Right to the City. 2. The Right to the City is defined as the equitable usufruct of cities within the principles of sustainability, democracy, equity, and social justice. It is the collective right of the inhabitants of cities, in particular of the vulnerable and marginalized groups, that confers upon them legitimacy of action and organization, based on their uses and customs, with the objective to achieve full exercise of the right to free self-determination and an adequate standard of living. The Right to the City is interdependent of all internationally recognized and integrally conceived human rights, and therefore includes all the civil, political, economic, social, cultural and environmental rights which are already regulated in the international human rights treaties. This assumes the inclusion of the rights to work in equitable and satisfactory conditions; to establish and affiliate with unions; to social security, public health, clean drinking water, energy, public transportation, and other social services; to food, clothing, and adequate shelter; to quality public education and to culture; to information, political participation, peaceful coexistence, and access to justice; and the right to organize, gather, and manifest one’s opinion. It also includes respect for minorities; ethnic, racial, sexual and cultural plurality; and respect for migrants. Urban territories and their rural surroundings are also spaces and locations of the exercise and fulfillment of collective rights as a way of assuring equitable, universal, just, democratic, and sustainable distribution and enjoyment of the resources, wealth, services, goods, and opportunities that cities offer. The Right to the City therefore also includes the right to development, to a healthy environment, to the enjoyment and preservation of natural resources, to participation in urban planning and management, and to historical and cultural heritage”. “World Charter for the Right to the City”, accessed July 24, 2023, <https://www.right2city.org/document/world-charter-for-the-right-to-the-city/>.

<sup>31</sup> «11. We share a vision of cities for all, referring to the equal use and enjoyment of cities and human settlements, seeking to promote inclusivity and ensure that all inhabitants, of present and future generations, without discrimination of any kind, are able to inhabit and produce just, safe, healthy, accessible, affordable, resilient and sustainable cities and human settlements to foster prosperity and quality of life for all. We note the efforts of some national and local governments to enshrine this vision, referred to as “right to the city”», New Urban Agenda, ONU HABITAT III, accessed July 24, 2023, <https://habitat3.org/wp-content/uploads/NUA-English.pdf>.

<sup>32</sup> “13. We envisage cities and human settlements that: (b) Are participatory, promote civic engagement, engender a sense of belonging and ownership among all their inhabitants, prioritize safe, inclusive, accessible, green and quality public spaces that are friendly for families, enhance social and intergenerational interactions, cultural expressions and political participation, as appropriate, and foster social cohesion, inclusion and safety in peaceful and pluralistic societies, where the needs of all inhabitants are met, recognizing the specific needs of those in vulnerable situations”, New Urban Agenda, ONU HABITAT III, accessed July 24, 2023, <https://habitat3.org/wp-content/uploads/NUA-English.pdf>.

New Urban Agenda – which conferred legal status to the right to the city – along with subsequent international and European documents aimed at improving living conditions in cities, have had repercussions on EU policies and legislation. This includes aspects related to the energy issue, and it is possible to discern implicit references to the right to the city within EU policies and legislation.

However, it is essential to consider that the right to the city is the endpoint, a sort of paradigm that should be on the horizon of solutions aimed at addressing the challenges arising from the urban phenomenon and ensuring the realisation of urban rights as one of its dimensions.

## 1.2. The urban phenomenon

Even though it already provided solid hints of this understanding, in “*La révolution urbaine*”,<sup>33</sup> Lefebvre takes a crucial qualitative leap and explicitly and more clearly refers not only to the city, but to the urban as a phenomenon that has surpassed the boundaries of cities.<sup>34</sup> Hence, the dilemmas of society and the need for efforts to ensure the right to the city are not exclusive issues of cities, since the urban fabric has expanded the urban way of life, with all its problems, on a global scale.<sup>35</sup>

It is possible to infer that contemporary environmental and climate consequences are a reflection not only of the industrial age or the industrial city, but of the development of a predatory urban model that values “*investment and economic development through isolated and speculative ventures more than the improvement of conditions in a specific context*”.<sup>36</sup> Therefore, this is a universal condition of capitalism.

Although the city predates industrialisation, it was through this movement that a process of urbanisation intensified, giving cities new features and allowing a mode of urban life developed within the framework of industrial and post-industrial capitalism to expand beyond the city limits.

According to David Harvey, “*cities have always resulted from a geographical and social concentration of a surplus of production*”.<sup>37</sup> Consequently, capitalism is perpetually generating surpluses of production demanded by urbanisation, and, simultaneously, it needs urbanisation to absorb the surplus of production.

In this context, not all solutions to urban problems are necessarily the most suitable or genuinely concerned with environmental issues or sustainable economic and social development. Often, they involve introducing new activities (or artificially created needs) to be exploited. After all, as time progresses and crises occur, it becomes essential to adjust the urban forms for capital absorption.

Consequently, public policies and the legal regulatory framework intended to address the challenges arising from the prevailing urban model and promote the enjoyment of urban rights can no longer be confined to corporate rationality with

<sup>33</sup> English translation as *The Urban Revolution*. See Henri Lefebvre, *The Urban Revolution*, trans. Robert Bononno (University of Minnesota Press, 2003).

<sup>34</sup> Henri Lefebvre, *A Revolução Urbana*, trans. Sérgio Martins (Belo Horizonte: Editora UFMG, 1999).

<sup>35</sup> We do not ignore that specificities must be considered according to the location. However, this does not prevent a global analyzes from being conducted.

<sup>36</sup> David Harvey, “From Managerialism to Entrepreneurialism: the transformation in urban governance in late capitalism”, *Geografiska Annaler, Series B, Human Geography*, Vol. 71, no. 1 (1989): 6, accessed September 05, 2023, doi: <https://doi.org/10.2307/490503>.

<sup>37</sup> Excerpt freely translated by the author. Original version: “As cidades sempre foram fruto de uma concentração geográfica e social de um excedente de produção”. David Harvey, *Cidades Rebeldes: do direito à cidade à revolução urbana*, (São Paulo: Martins Fontes, 2014), 33.



its features and techniques. Attempting to alter urban reality based on industrial principles or following the path of urban entrepreneurship, can exacerbate the problems one aims to combat, according to David Harvey.<sup>38</sup>

Alternatively, developing impactful strategies that address urban issues at their root causes is essential. The construction of a new urban environment will be achieved by ensuring the realisation of urban democracy based on the active participation of its inhabitants.

In this regard, it is crucial to remember that even with the explicit provisions in the legal and regulatory framework for mechanisms promoting urban democracy, it may be hindered within the confines of the state's institutional structures. After all, in the logic of urban entrepreneurship and the commercialisation of spaces, it is not uncommon for the celebrated "*civic activism*" to be reduced to a convention of "*local financiers, industrialists, and merchants, or some roundtable of business leaders and real estate and property developers*"<sup>39</sup> who capture initiatives for urban improvement in favour of their interests. The participating citizen is often instrumentalised and assumes the role of a mere consumer or executor of the proposed solution.

## 2. Citizen participation in Directive (EU) 2019/944 on the internal market for electricity and Directive (EU) 2018/2001 on renewable energy sources.

From what has been discussed so far, it is possible to assert that the energy matter is closely related to the right to the city and urban challenges. Beyond being a demand for an urban right, the urgency of the energy issue stems from the intensification of the capitalist urbanisation model previously referenced, along with its various adverse consequences, including environmental and climate-related ones. The development of energy demands has followed a parallel path to the evolution of industrialisation and the emergence of the urban phenomenon.

European energy policy has expanded through five "*packages*".<sup>40</sup> Initially, in the early 1990s, as a result of the liberalisation of the energy sector,<sup>41</sup> with a greater focus on the need to reduce external dependence.

Subsequently, in the 2000s, there was a strong influence from environmental movements in the energy sector demands. Therefore, in addition to the worsening "*political difficulties in accessing primary energy sources*"<sup>42</sup> there is a growing concern about environmental and climate issues and the need to promote the right of access to energy. In this scenario, the need for an energy transition and the increased use of renewable energy sources (RES) in electricity production gain prominence as part of this process.

Article 194 of the Treaty on the Functioning of the European Union (TFEU)<sup>43</sup> stipulates that energy policy must take place within the framework of the

<sup>38</sup> Harvey, "*From Managerialism*", 3-17.

<sup>39</sup> Harvey, "*From Managerialism*", 7.

<sup>40</sup> For more information, visit <https://www.europarl.europa.eu/factsheets/en/sheet/45/internal-energy-market>.

<sup>41</sup> In accordance with Suzana Tavares da Silva the choice for liberalisation was dictated by the World Bank based on Baumol's theory of contestable markets and the contributions of the Chicago School. Tavares da Silva, *Direito da Energia*, 77.

<sup>42</sup> Excerpt freely translated by the author. Original version: "Dificuldades (políticas) no acesso às fontes energéticas primárias". Tavares da Silva, *Direito da Energia*, 77.

<sup>43</sup> "Article 194. 1. In the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall

establishment or functioning of the Internal Market, and must be based on the preservation and improvement of the environment. Thus, energy-related measures must also ensure energy supply, promote energy efficiency and savings, develop new and renewable energy sources, and interconnect energy networks.

The objectives of European energy policy, as well as the packages<sup>44</sup> designed to achieve them, are grounded in the concept of an Energy Union Strategy.<sup>45</sup> This strategy proposes, among other things, the urgency of an energy transition based on a model in which citizens are the main actors in the energy market, “*being at the centre of concerns*” and “*appropriating the energy transition*”. This fact implies the development of distributed energy generation models.

Two Directives within the European regulatory framework emerge in this scenario: Directive (EU) 2019/944 on the Internal Market for Electricity and Directive (EU) 2018/2001 on Renewable Energy Sources. These Directives were developed as part of the “*Clean Energy Package for all of Europe*”, among other initiatives. They are significant because they incorporate mechanisms to enable a new form of citizen participation in the energy sector. Consequently, citizens can contribute to the energy transition and engage in the energy market, facilitating diversification in energy supply sources and achieving the climate goals.

The Directives address not only the responsibilities of citizens but also other stakeholders in the energy market. However, the focus of this paper is limited to identifying how citizens who were not previously active participants in the energy market can become involved. Furthermore, within this participation lies the potential for realising the right to the city and addressing the structural causes of urban issues through new forms of democratic engagement, especially in their urban dimension.

Indeed, as a result of the studied Directives, the term “citizens” will encompass individuals who, due to their legal ties with an EU Member State, possess both rights and responsibilities and can participate in political and democratic processes within the EU and their respective Member State. Specifically, this definition pertains to natural persons who were not traditionally active participants in the energy market but were formerly categorised as consumers or customers.

Through the combined analysis of the Directives, it is evident that citizens may assume different roles depending on the participation mechanism in question. Thus, the Internal Market Electricity Directive refers to citizens as: i) “*final customers*”<sup>46</sup> (those who purchase electricity for their consumption); ii) “*household customers*”<sup>47</sup> (those who purchase electricity for their household consumption); and iii) “*non-household*

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aim, in a spirit of solidarity between Member States, to: (a) ensure the functioning of the energy market; (b) ensure security of energy supply in the Union; (c) promote energy efficiency and energy saving and the development of new and renewable forms of energy; and (d) promote the interconnection of energy networks”.

<sup>44</sup> Specifically, the Fit for 55 and Clean Energy Package.

<sup>45</sup> Published in February 2015, which aimed at building an energy union to give EU households and businesses a secure, sustainable, competitive and affordable energy supply. European Parliament, “Energy policy: general principles”, accessed July 26, 2023, <https://www.europarl.europa.eu/factsheets/en/sheet/68/politica-energetica-principios-gerais>.

<sup>46</sup> Article 2, 3) ‘final customer’ means a customer who purchases electricity for own use. Directive 2019/944/EU on common rules for the internal market for electricity and amending Directive 2012/27/EU.

<sup>47</sup> Article 2, 4) ‘household customer’ means a customer who purchases electricity for the customer’s own household consumption, excluding commercial or professional activities. Directive 2019/944/EU on common rules for the internal market for electricity and amending Directive 2012/27/EU.

*customers*<sup>48</sup> (those who purchase electricity not intended for household consumption). The participation of citizens in these roles aligns with that of customers, a role traditionally assumed.

However, the Directive introduces the concept of the “*active customer*”, which essentially refers to either the final customer or a group of jointly acting final customers. In addition to their consumption, these customers also engage in activities such as electricity generation, storage, sales of self-generated electricity, or participation in flexibility and energy efficiency schemes.<sup>49</sup>

The Renewable Energy Sources Directive refers to citizens as consumers or customers without explicitly qualifying them as active but referring to them in that sense on one occasion. Nevertheless, through an analysis of the participation mechanisms outlined in the Directive, it can be deduced that citizens can also assume the role of active customers when using renewable energy.

Regarding the forms of participation, both Directives refer to “*participation*” without qualification. Nonetheless, the Internal Market Electricity Directive, on some occasions, also designates this participation as direct/active.

As a method of direct/active participation in the market, consumers (including citizens) can engage in all forms of demand response.<sup>50</sup> This implies that consumers can change their consumption patterns based on market signals. This participation is facilitated by access to information (clear and easily comprehensible, in real-time or near-real-time) about the energy produced and consumed.

In this context, what emerges is what we consider to be a new urban right arising from the right to energy and energy efficiency: the right to access a “*smart metering system*”,<sup>51</sup> which can provide more accurate and updated information about electricity consumption introduced into the grid than a traditional meter. Alternatively, it involves the right to have a “*dynamic electricity price*”<sup>52</sup> contract reflecting

<sup>48</sup> Article 2, 5) ‘non-household customer’ means a natural or legal person who purchases electricity that is not for own household use, including producers, industrial customers, small and medium-sized enterprises, businesses and wholesale customers. Directive 2019/944/EU on common rules for the internal market for electricity and amending Directive 2012/27/EU.

<sup>49</sup> Article 2, 8) ‘active customer’ means a final customer, or a group of jointly acting final customers, who consumes or stores electricity generated within its premises located within confined boundaries or, where permitted by a Member State, within other premises, or who sells self-generated electricity or participates in flexibility or energy efficiency schemes, provided that those activities do not constitute its primary commercial or professional activity. Directive 2019/944/EU on common rules for the internal market for electricity and amending Directive 2012/27/EU.

<sup>50</sup> Article 2, 20) ‘demand response’ means the change of electricity load by final customers from their normal or current consumption patterns in response to market signals, including in response to time-variable electricity prices or incentive payments, or in response to the acceptance of the final customer’s bid to sell demand reduction or increase at a price in an organised market as defined in point (4) of Article 2 of Commission Implementing Regulation (EU) No 1348/2014 ( 17), whether alone or through aggregation. Directive 2019/944/EU on common rules for the internal market for electricity and amending Directive 2012/27/EU.

<sup>51</sup> Article 2, 23) ‘smart metering system’ means an electronic system that is capable of measuring electricity fed into the grid or electricity consumed from the grid, providing more information than a conventional meter, and that is capable of transmitting and receiving data for information, monitoring and control purposes, using a form of electronic communication. Directive 2019/944/EU on common rules for the internal market for electricity and amending Directive 2012/27/EU.

<sup>52</sup> Article 2, 15) ‘dynamic electricity price contract’ means an electricity supply contract between a supplier and a final customer that reflects the price variation in the spot markets, including in the day-ahead and intraday markets, at intervals at least equal to the market settlement frequency. Directive 2019/944/EU on common rules for the internal market for electricity and amending Directive 2012/27/EU.

price fluctuations in spot markets, including day-ahead and intraday markets, with intervals at least as frequent as the market adjustment frequency.

Based on the received information, consumers may be able to adjust their consumption to supply and demand fluctuations, thereby contributing to the stabilisation of the electrical grid. They can benefit from lower electricity prices and other financial incentives. The mentioned action has a significant impact: “*the electrical system operates based on the constant (and nearly immediate) interaction between supply and demand*”.<sup>53</sup>

By ensuring that consumers who do not wish to participate in the market actively should have the opportunity of making informed decisions about available options, the Directive appears to confirm that the form above of participation in demand response is indeed considered a direct/active form of energy market participation. This manner of participation goes beyond mere informed decision-making; it is more precise and, consequently, exerts a more significant influence on system flexibility and energy efficiency plans. Ultimately, upon receiving the information, citizens will have the opportunity to exercise their decision-making power regarding consumption, and consequently will influence the efficiency of the electrical system’s operation.

Nonetheless, the most significant innovation can be observed in another form of participation provided for in the Directives. This relates to decentralised energy production initiatives, notably Citizen Energy Communities (CEC) as outlined in the Internal Electricity Market Directive, as well as self-consumption and collective self-consumption, along with Renewable Energy Communities (REC) as defined in the Renewable Energy Sources Directive.

According to Ana Rita Antunes,<sup>54</sup> energy communities were already referred to as energy cooperatives in the 20th century, even before they were outlined in European legislation. They already showed the potential to transform passive consumer citizens into active consumers by directly participating in the local energy enterprise construction.

Decentralised energy production initiatives are vital and aim to shift energy production away from being solely centralised within large corporations currently dominating the market. They strive to broaden the spectrum of energy producers to include other stakeholders, particularly citizens. The goal is to create a more democratic energy sector that contributes to the overall enhancement of democracy.

These initiatives can potentially influence the origins of urban issues and promote the right to the city. They are also crucial to the success of the energy transition. However, their positive results will depend on overcoming discursive rhetoric and will be linked to how they are developed, and the actual role played by citizens in their implementation.

In this sense, the Renewable Energy Sources Directive, in its Articles 2,<sup>55</sup> numbers 14 and 15, defines the figures of “*renewable self-consumers*” and “*jointly*

<sup>53</sup> Excerpt freely translated by the author. Original version: “O sistema elétrico funciona a partir do encontro permanente (e quase imediato) entre a procura e a oferta”. Tavares da Silva, *Direito da Energia*, 77.

<sup>54</sup> Ana Rita Antunes, “As comunidades de energia e o empoderamento dos cidadãos”, in *Comunidades de Energia Renovável*, ed. João Crispim and José Gomes Mendes (Braga: UMinho Editora, 2023), 16 and 17.

<sup>55</sup> Article 2, (14) ‘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

*acting renewable self-consumers*". The former is the final consumer who produces renewable electricity for their own consumption and may store or sell the electricity produced – provided that this activity is not their primary commercial or professional activity. Meanwhile, jointly acting renewable self-consumers are at least two renewable energy self-consumers who cooperate and are in the same building or apartment block.

Under Article 2, number 16<sup>56</sup> and Article 22,<sup>57</sup> Renewable Energy Communities (REC) are legal entities whose specific form should be in accordance with the applicable national law of the Member States. These entities are based on open and voluntary participation, are autonomous, and must be effectively controlled by shareholders or members that are in the proximity of the renewable energy projects, owned and developed by the legal entity. Shareholders or members can be natural persons, small and medium-sized enterprises (SME), or local authorities, including municipalities. The primary goal of RECs is to provide environmental, economic, and social benefits to their shareholders, members, or the communities in which they operate rather than financial profits. Final consumers, including households, can participate in a REC while maintaining their rights or obligations as final consumers. In other words, they can hold dual roles, and should not be subject to conditions and procedures hindering their community participation.

Furthermore, those who participate in a REC cannot make this participation their primary commercial or professional activity. Once established, RECs must have their right to produce, consume, store, sell, and share renewable energy produced among their members, ensured through renewable electricity purchase contracts.

In turn, CECs are addressed in Articles 2, number 11<sup>58</sup> and Article 16 of the Internal Market Electricity Directive and bear many similarities to RECs with some

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constitute its primary commercial or professional activity; (15) 'jointly acting renewables self-consumers' means a group of at least two jointly acting renewables self-consumers in accordance with point (14) who are located in the same building or multi-apartment block. Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources.

<sup>56</sup> Article 2, (16) "renewable energy community" means a legal entity: (a) 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". Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources.

<sup>57</sup> Article 22, (1) Member States shall ensure that final customers, in particular household customers, are entitled to participate in a renewable energy community while maintaining their rights or obligations as final customers, and without being subject to unjustified or discriminatory conditions or procedures that would prevent their participation in a renewable energy community, provided that for private undertakings, their participation does not constitute their primary commercial or professional activity. Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources.

<sup>58</sup> Article 2, (11) 'citizen energy community' means a legal entity that: (a) is based on voluntary and open participation and is effectively controlled by members or shareholders that are natural persons, local authorities, including municipalities, or small enterprises; (b) has for its primary purpose to provide environmental, economic or social community benefits to its members or shareholders or to the local areas where it operates rather than to generate financial profits; and (c) may engage in generation, including from renewable sources, distribution, supply, consumption, aggregation, energy storage, energy efficiency services or charging services for electric vehicles or provide other energy services to its members or shareholders. Directive 2019/944/EU on common rules for the internal market for electricity and amending Directive 2012/27/EU.

differences: control may be exercised by members or shareholders who are natural persons, local authorities, including municipalities, or small businesses. Furthermore, “CECs focus on the return of benefits to the groups of people involved in the energy project or to the local areas, thus including a social dimension. RECs are bounded to a geographical dimension, connecting the community at a proximity level”.<sup>59</sup>

Another significant difference is that RECs can only produce energy from renewable sources, while CECs can generate electricity, including but not exclusively from renewable sources. Additionally, they encompass a broader scope of activities, including other energy services and electric vehicle charging.

Citizens can engage directly in various aspects of decentralised energy production models, either concurrently or independently, which encompass: i) production, distribution, commercialisation, consumption, aggregation, storage, the provision of energy efficiency services, electric vehicle charging services, and other energy-related services; and ii) collective and effective control exercised through membership, shareholding, or equity ownership in CECs or RECs.

Thus, “energy communities can generally be defined as an organized group of users actively cooperating in developing innovative forms of energy sharing”.<sup>60</sup> Consequently, communal and decentralised energy production forms, particularly RECs and CECs, only become meaningful when those involved actively participate. They are regarded as initiatives driven by the pursuit of shared environmental, economic, and social benefits that take precedence over individual financial profit.

It is important to note that based on the definition of CECs, their primary aim is not to generate financial profits, whereas RECs seem to have the potential for financial profits, likely of a collective nature but not as their primary objective. Ideally, these initiatives align with the principles of the right to the city: they are built on a model that encourages active citizen engagement, promotes democracy, focuses on the common good, and contributes to realising the right to access energy, reducing energy poverty, mitigating environmental and climate issues, and other urban and new rights.

Certainly, for these initiatives to succeed, the legal framework must prevent capture by markets, a subversion that can occur when the envisaged forms of citizen participation are not clear and assertive, potentially masking interests that are not collective.

While it falls to the Member States to transpose the aforementioned Directives and provide specific definitions for energy communities, the general guidance outlined in the European Directives itself must ensure that citizens can engage through the effective exercise of control beyond merely the actions of producing, consuming, storing, selling, and sharing energy.

In this scenario, citizens should also be involved in the decision-making process regarding the focus of the community’s role in the energy chain, defining the objectives pursued by the communities. Furthermore, each community must have the autonomy to manage its financial and energy resources and aim to channel the energy produced, and any potential profit generated in the case of RECs, following

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<sup>59</sup> Saveria Olga Murielle Boulanger *et al.*, “Designing Collaborative Energy Communities: A European Overview”, *Energies*, 14, 8226 (2021): 4, accessed September 8, 2023, doi: <https://doi.org/10.3390/en14248226>.

<sup>60</sup> Boulanger *et al.*, “Designing Collaborative Energy Communities”, 4.

their customs and collective needs rather than third-party interests, especially those of the traditional market.

The Renewable Energy Sources Directive seems to make a valid point by stating that RECs must be autonomous both externally (acting in their name, exercising rights, and being subject to obligations), and internally (retaining their autonomy to individual members and other traditional market participants who participate in the community).

However, it is essential to consider: i) the nature of participants (as members or shareholders); ii) control and management model of RECs to determine whether internal autonomy could potentially become mere rhetoric.

According to a comparative study based on policy implementation across European Energy Network member countries,<sup>61</sup> some countries have expanded the number of entities that can participate in RECs, including other legal entities, research institutions, the third sector, and environmental protection agencies, as is the case in Austria and Italy. Nevertheless, in Austria, large companies from various sectors and major electricity and natural gas companies, cannot be members of RECs. In Greece, while there is no specific legislation for RECs, the concept of Energy Communities already exists. In this context, participation is open to private legal entities of any size.

Except for Greece, which had not yet transposed the Directive at the time of the study, the other countries analysed seem to comply with the Directives regarding the prohibition of participation by large companies. This provides some protection for citizens and the energy production model.

Regarding the management options of RECs, 70% of the studied members allow management to be carried out by a member of the REC or by third parties. However, in France, shareholders must retain voting rights and effective control over the REC. In Austria, third parties can only perform operational tasks related to the operation of energy generation units, with the legal entity of the REC (and consequently its members) participating in management. In Spain and Greece, management must be exclusively conducted by community members.

That said, it is necessary to reflect on whether the possibility for third parties to manage RECs as a “*service*” can operate within the logic of urban entrepreneurship. To what extent does this not create space for private companies already operating in the energy market to turn decentralised energy production into a mere business disconnected from realising the right to the city?

In this context, it is crucial to test whether merely invoking the valid discourse that the primary purpose of energy communities is to provide social, environmental, and economic benefits rather than profits is sufficient. Furthermore, outsourcing participation and the potential distortion of the goals pursued by energy communities could legitimise citizens’ non-participation.

According to Sherry Arnstein’s<sup>62</sup> typology of citizen participation, only the last dimensions of participation outlined by her can be considered a level of citizen

<sup>61</sup> European Energy Network, “Energy Agencies and Renewable Energy Communities: a new path for energy decentralization. Comparative analysis of the current status of renewable energy communities in EnR member countries and the role of EnR energy agencies in policy and implementation”, Energy Agencies and Renewable Energy Communities: a new path for energy decentralization”, November 2022, <https://enr-network.org/wp-content/uploads/EnR-Study-RenewableEnergyCommunities.pdf>.

<sup>62</sup> Arnstein, “A Ladder of Citizen Participation”.

power capable of influencing the process. These levels are achieved when citizens have the power to negotiate on an equal footing with those who traditionally hold power, when they have a majority for decision-making, or when they have total managerial power.

From this perspective, it could enable a lack of citizen protagonism during the energy transition, and a lack of impactful participation in the energy market, distancing citizens from urban democracy. Thus, participation initiatives would only legitimise opening new markets to overcome capitalist crises, exacerbating urban problems and climate-related environmental issues.

Therefore, the aspects mentioned above appear to be highly relevant to ensure that the citizens (and their interests and needs) are the centre of the energy communities.

## Final remarks

The article was constructed within the framework of the intersection between the conception of the right to the city, encompassing all its dimensions, and environmental, climate, and energy-related issues.

Consequently, an initial and concise description of the right to the city was presented, treating it as a concept within urban sociology until its recognition as a human right. The primary aim was to illustrate that the right to the city possesses dimensions that, in contemporary contexts, extend beyond the confines of urban areas and hold universal relevance. It encompasses the right to enjoy urban life by ensuring access to specific urban rights, and mandates that an urban model be fostered through a movement that empowers citizens, placing their participation on an equal footing with those who traditionally wield power.

Taking into account the critical study of the urban phenomenon that underlies the construction of the right to the city, this paper seeks to demonstrate that environmental and climate issues are global challenges resulting not only from industrialisation, as commonly referenced, but from the capitalist model of urbanisation focused almost exclusively on urban entrepreneurship for profit and economic growth.

In this regard, considering the intention to solve environmental and climate issues, the approaches adopted must be developed not by replicating the existing business model applied to urban areas, but from an alternative paradigm based on promoting the right to the city in all its dimensions.

Considering that energy demand is closely related to environmental and climate issues, this paper focuses on the study of Directive (EU) 2019/944 on the Internal Market Electricity and Directive (EU) 2018/2001 on Renewable Energy Sources. These Directives provide mechanisms to promote citizen participation in the energy market and the energy transition and have potential to promote the democratisation of the energy sector. They also represent a shift toward more decentralised and community-driven energy production and consumption, which is fundamental for an efficient energy transition.

Therefore, this article proceeds to fulfil its primary objective i.e., identifying the main forms of participation outlined in the analysed Directives, their essential characteristics, and the role to be played by citizens.

Among the modes of participation foreseen in the Directives, this paper highlights the decentralised energy production initiatives, notably the RECs. Due to the relevance of ensuring that citizens are the protagonists of this measure, its text



references the forecasts that account for the actors who can participate in them and the management mode.

Lastly, employing a critical perspective and following the right to the city as a benchmark, the text provides some alarm signals to consider when analysing and adopting decentralised energy production initiatives: while providing mechanisms for citizen participation, the European legal and regulatory framework for energy does not guarantee the effective engagement of citizens in the energy transition and market.

Otherwise, they will be instrumentalised to promote the absorption of surplus production and overcome crises of capitalism, confirming the warning (in the form of a slogan) from 1968: fictitious citizen participation that exploits legal structures and regulatory principles to benefit those who traditionally wield power.

In this context, an analytical perspective grounded in the right to the city underscores the necessity for the European energy legal and regulatory framework to go beyond establishing participatory mechanisms. It should also ensure that these mechanisms are aligned with the principles of urban democracy and guarantee the realisation of urban rights.