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Cast Away? How EU Energy Law Provides for a Just Transition for EU Islands

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Cast Away? How EU Energy Law Provides for a Just Transition for EU Islands by R.J.G. Mauger

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Cast Away? How EU Energy Law Provides for a Just Transition for EU Islands

Romain Mauger*

Abstract

The EU counts approximately 2400 islands, totalling a population of nearly 15 million. Islands are particularly vulnerable to climate change but enjoy a naturally high potential of renewable energy sources to harness. As a consequence, the EU considers them as energy transition laboratories and wishes to decarbonise 1000 of them by 2030. If this outcome might be technically possible, it requires fit-for-purpose EU and national legal frameworks as well as a strong emphasis on the fairness aspect of this transition.

This article firstly analyses the concept of Just Transition and its use in international law and EU policy and law. It proposes the notion of ‘concentric Just Transition’ to qualify the current use of this concept in EU initiatives, policy and law, and it introduces an ambitious framework to be used by the EU for a fair transition to a sustainable, low-carbon economy. Secondly, it assesses the challenges and opportunities for a Just Transition on EU islands, with the help of the SMILE project islands (Madeira, Orkney and Samsø). Thirdly, it gathers elements of existing EU energy law which could be of use for a Just Transition on EU islands. Finally, it concludes by emphasising the key role that energy communities can play for a Just Transition on EU islands.

1. Introduction

The energy transition is presented by Lachal as a set of three interlinked pillars towards a more rational use of energy:

- efficiency: better transforming energy [...];
- substitution: decarbonizing and denuclearizing the energy system, which involves the gradual and rational substitution of fossil and fissile energies by renewable sources [...];
- sobriety: to be more energetically sober, which certainly implies in the *end* a questioning of certain values on the basis of our domination – necessarily temporal – of nature such as individualism, excessive competition or the use of violence to settle conflicts.¹

As this definition shows, the energy transition is not a merely technical process consisting in replacing fossil (and maybe fissile) fuels by renewable energy ones.² It is a process that entails much broader consequences on society and that raises many questions, including moral ones.

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¹ Bernard Lachal, *Energy Transition*, 2019 (ISTE Ltd and John Wiley & Sons, Inc), p. 9.

² In most academic publications the focus is placed on “a change in an energy system” with a clearly technical focus. See Benjamin K. Sovacool, *How long will it take? Conceptualizing the temporal dynamics of energy transitions*, *Energy Research & Social Science* 13 (2016), p. 203.

This is exemplified by the growing interest for the concept of Just Transition worldwide and recently among the European Union's (EU) institutions.

The EU has pledged to become a carbon-neutral economy by 2050.³ To do so, its energy system needs to transit towards renewable energy sources (RES). The next step is to reach at least 32% of the final energy consumption coming from RES by 2030.⁴ Yet, this process must take place “through a socially-fair transition in a cost-efficient manner.”⁵ This is increasingly being integrated to EU initiatives, policies and laws, where the concept of Just Transition is gaining traction, although the objectives and actions that lie behind this term vary.

EU islands happen to be at the forefront of the energy transition, both due to their vulnerability to climate change and natural hazards and thanks to their high RES potential. Therefore, EU islands are considered as natural laboratories for energy transitions. However, the question which has not been asked is: what type of energy transition is to be demonstrated on these islands? Indeed, as developments in this article show, EU energy law only contains limited energy-transition-on-islands provisions and there is no islands-specific programme in Just Transition mechanisms which rather focus on fossil fuels and carbon-intensive regions. As a consequence, it is of interest to gather already existing elements that can be used to foster immediate action for a Just Transition, such as by using energy communities as a vehicle.

This article firstly analyses the concept of Just Transition and its use in international law and EU policy and law. Secondly, it assesses the challenges and opportunities for a Just Transition on EU islands, with the help of the SMILE project islands: Madeira (PT), Orkney (UK) and Samsø (DK). Thirdly, elements of existing EU energy law which could be relevant to a Just transition on EU islands are assessed. Finally, it concludes by emphasising the key role that energy communities can play for a Just Transition on EU islands.

2. The Concept of Just Transition and its use in International Law and EU Policy and Law

The concept of Just Transition has evolved since its emergence and now covers different understandings according to who uses it. Yet, it has surfaced in international law as well as in EU policy and law during the 2010s, with some variations in its focus.

2.1 The Concept of Just Transition

The concept of Just Transition originates from North American workers unions which started using it in the 1980s, “in response to new regulations to prevent water and air pollution.”⁶ At the end of the 1990s, a Canadian union activist, Brian Kohler, published an early understanding

³ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank, A Clean Planet for all A European strategic long-term vision for a prosperous, modern, competitive and climate neutral economy, Brussels, 28.11.2018, COM(2018) 773 final (hereinafter, Communication from the Commission, A Clean Planet for all (2018)), p. 3.

⁴ *Id.*, p. 5.

⁵ *Id.*, p. 3.

⁶ Noel Healy and John Barry, Politicizing energy justice and energy system transitions: Fossil fuel divestment and a “just transition”, *Energy Policy* 108 (2017) (hereinafter, Healy and Barry, (2017)), p. 454.

of this concept.⁷ According to him, it aims to reconcile the unions' activities for decent jobs and the protection of the environment. As Kohler himself paraphrases, "the real choice is not jobs or environment. It is both or neither." The emergence of this concept marks a shift in the perception of environmental protection measures on industries and jobs. Indeed, it used to be considered that "environmentalists pushing for a transformation to an environmentally sustainable economy [represented a] threat to jobs".⁸ Through the lens of the Just Transition, jobs losses in an environmentally damaging sector are accepted and deemed unescapable,⁹ yet, to face this havoc, workers, environmentalists and the local community can unite to transform and adapt their territory.

Over the 2010 decade, unions reshaped this rather narrow perception of Just Transition focusing on local reactions to a specific regulation, to now consider it "as the conceptual framework in which the labour movement captures the complexities of the transition towards a low-carbon and climate-resilient economy".¹⁰ As environmental protection is no longer a silo issue in a time of climate change and calls for a general transition of the global economy, the concept evolved as well. The overarching idea remains that "environmental and social policies are not contradictory but, on the contrary, can reinforce each other",¹¹ and it is transposed to a global level and its scope is broadened. This broadening appears clearly in the 'Guidelines for a just transition towards environmentally sustainable economies and societies for all' published in 2015 by the International Labour Organization (ILO). Instead of focusing solely on workers' (and local communities') support, its seven guiding principles promote a transition towards sustainable economies that is: participatory, rights based, gender inclusive, holistic, jobs' quality improvement oriented, adapted locally and mindful of international cooperation.¹²

The concept of Just Transition has also diffused among environmental non-governmental organisations (NGOs), especially over the past years.¹³ In most cases, they start from the standpoint of the need for a Just Transition for the workforce, but directly link it to climate action, sustainable development, poverty alleviation and the general involvement of businesses, civil society and local communities.¹⁴ This broad understanding of the concept is exemplified by a detailed report for the NGO The Climate Equity Network. The document proposes four pillars for a just transition: strong governmental support, dedicated funding

⁷ Anabella Rosemberg, Building a Just Transition: The linkages between climate change and employment, *in* Climate change and labour: The need for a "just transition", International Journal of Labour Research vol. 2 Issue 2 (2010) (hereinafter Rosemberg, (2010)), p. 141.

⁸ Jim Young, Just Transition: A New Approach to Jobs v. Environment, Working USA (now Journal of Labor and Society) (1998), p. 42.

⁹ *Id.*, p. 43.

¹⁰ Rosemberg, (2010) p. 141.

¹¹ *Ibid.*

¹² ILO, Guidelines for a just transition towards environmentally sustainable economies and societies for all (2015), pp. 5-6.

¹³ See for more detail: Edouard Morena *et al.*, Mapping Just Transition(s) to a Low-Carbon World, pp. 9-10; Transnational Institute, Just Transition: How environmental justice organisations and trade unions are coming together for social and environmental transformation (2020), pp. 3-4; Edouard Morena, Securing workers' rights in the transition to a low-carbon world: The just transition concept and its evolution, *in* Sébastien Duyck, Sébastien Jodoin and Alyssa Johl (eds.) Routledge Handbook of Human Rights and Climate Governance (Routledge International Handbooks 2018), pp. 295-296; Anabella Rosemberg, 'No jobs on a dead planet': The international trade union movement and just transition, *in* Edouard Morena, Dunja Krause and Dimitris Stevis (eds.), Just Transitions: Social Justice in the Shift Towards a Low-Carbon World (Pluto Press 2020), pp. 47-48.

¹⁴ Gillian Nelson, NGO Brief: Just Transition in Focus, accessed 31 May 2018, available at <<https://sdg.iisd.org/commentary/policy-briefs/ngo-brief-just-transition-in-focus/>>.

streams, diverse and strong coalitions, and economic diversification.¹⁵ The possible interpretation of these pillars is facilitated by successful cases of just transitions at a local or regional scale which allowed workers' reconversions and local communities' stability or even development.¹⁶ Aside from the classic measures for workers and to compensate losses in local taxes for municipalities, it is the experience on proactive bottom-up decision-making for the territory's transition that is perhaps the most interesting.¹⁷ Overall, the main aspects of a Just Transition according to this report read as follows: (i) the transition away from fossil-fuels must happen faster,¹⁸ (ii) it must protect workers and communities economically dependent on the fossil fuel industry,¹⁹ (iii) it must not increase inequalities but rather redress them,²⁰ (iv) it must be based on a broad public and political support,²¹ and finally (v) it "requires a holistic, comprehensive vision that moves beyond emissions reduction to addressing issues of health care, affordable housing, transportation, and others to ensure communities and workers can thrive in a low-carbon future."²²

Energy and environment-focused academics have recently shown a growing interest for the concept of Just Transition too. Healy and Barry explain that this concept is moving from "a narrow, reactive focus" on labour and environmental measures to reach broader issues such as the transition to a circular economy.²³ Indeed, any significant change to the energy system "leads to [a] different social, political and economic order". As a consequence, the authors state that the "just transformation of the socio-energy system is also a decision to live in a different type of society".²⁴ In the same vein, they refer to the public participation aspect of the Just Transition, but to tie it to the concept of 'energy democracy', "understood as involving democratic participation of citizens in any energy transition and also using that transition to promote and achieve greater democratic political economy control over energy by citizens and communities as integral components of the low-carbon transition."²⁵ The Just Transition concept becomes therefore a potential catalyst for a much broader societal change. The authors conclude by stating that "overcoming 'carbon lock in' cannot be at the price of 'energy injustice lock in'",²⁶ stressing that redressing the inequalities of the past is of paramount importance for this transition. These issues of public participation and the risk of the "continuation of the ongoing inequality in society", are also raised by other academics.²⁷ However, there is no universal agreement on this broad understanding among the scientific literature.²⁸

¹⁵ J. Mijin Cha, *et al.*, A Roadmap to An Equitable Low-Carbon Future: Four Pillars for A Just Transition, Prepared for The Climate Equity Network (2019), p. 5.

¹⁶ *Id.*, pp. 16 and foll.

¹⁷ *Id.*, p. 25.

¹⁸ *Id.*, p. 3.

¹⁹ *Ibid.*

²⁰ *Id.*, p. 4.

²¹ *Id.*, p. 30.

²² *Ibid.*

²³ Healy and Barry, (2017) pp. 454-455.

²⁴ *Id.*, p. 453.

²⁵ *Id.*, p. 455.

²⁶ *Id.*, p. 457.

²⁷ See Raphael J. Heffron and Darren McCauley, What is the 'Just Transition'?, *Geoforum* 88 (2018), pp. 76 and 75 respectively.

²⁸ See Ann Eisenberg, "Just Transitions." *Southern California Law Review* vol. 92 no. 2 (2019), pp. 287-288; for a nuanced view on the possibility to develop a new legal field on Just Transitions, see David J. Doorey, Just Transitions Law: Putting Labour Law to Work on Climate Change, *Journal of Environmental Law and Practice* 30.2 (2017), pp. 201-239.

Out of this analysis of the main understanding of the concept of Just Transition by labour unions, NGOs and energy and environment academics, this author proposes the following elements for an ambitious framework to be used by the EU for a fair transition to a sustainable, low-carbon economy:

- (i) it must tackle the issue of threatened jobs in specific sectors and territories,
- (ii) it must however also be geographically and sector-wise holistic in that it integrates broad economic, social and environmental aspects in all territories,
- (iii) it must be based on bottom-up processes of public participation, and
- (iv) it must redress the inequalities of the past and present energy system in order to create a fair one.

2.2 The Just Transition Concept in International Law and in EU Policy and Law

In the 2010s, the concept of Just Transition has been integrated into international law. It is mentioned in the outcome of the Rio+20 Earth Summit, held in 2012, in the 2015 Paris Agreement,²⁹ and in the 2018 Solidarity and Just Transition Silesia Declaration issued at the end of the Conference of the Parties to the UNFCCC (COP) 24.³⁰ However, Just Transition is typically understood in its classic, labour-union coined, meaning and therefore limited to the workforce. It is also mentioned in terms that lack prescriptiveness. In the Rio+20 outcome document, the signatories “recognize [its] importance”.³¹ In the Paris Agreement, it is inserted in the preamble, which has a lesser legal value, and it is only “taken into account”.³² Finally, in the Silesia declaration that is focusing exclusively on it, the verbs ‘must’ or ‘shall’ are not used and at the end all the Parties and stakeholders are solely “invited [to] implement this Declaration”.³³ In sum, if the concept has been used over the 2010 decade in flagship international agreements or declarations focusing on climate change, energy and the environment, it is only mentioned under its reduced understanding and without real legal value nor implemented as a practical mechanism.

In EU policy and law, the term of Just Transition has increasingly been used over the past few years and has reached its climax in early 2020 with a proposal for a specific legal mechanism. As a first significant step towards the integration of the logic of a Just Transition, the European Commission (EC) included into an annex to its presentation of the Clean Energy Package in 2016 the notion of “socially fair transition”.³⁴ It briefly sketches in its introduction why the transition has to be fair, how this will take place and who will benefit:

Energy is a critical good and service, absolutely essential for full participation in modern society. A number of instruments already exist and will need to be deployed to ensure that the clean energy transition is fair and takes into account its transformative

²⁹ Healy and Barry, (2017) p. 454.

³⁰ Available at <https://cop24.gov.pl/fileadmin/user_upload/Solidarity_and_Just_Transition_Silesia_Declaration_2_.pdf>.

³¹ Para 152, available at <<https://sustainabledevelopment.un.org/rio20/futurewewant>>.

³² See p. 2, available at <https://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf>.

³³ Available at <https://cop24.gov.pl/fileadmin/user_upload/Solidarity_and_Just_Transition_Silesia_Declaration_2_.pdf>.

³⁴ Communication from the Commission, Clean Energy for All Europeans, Brussels, 30.11.2016, COM(2016) 860 final, annex 2, Action to boost the clean energy transition (hereinafter, Communication from the Commission, Clean Energy for All Europeans, annex 2 (2016)), pp. 2-3, available at <<https://ec.europa.eu/transparency/regdoc/rep/1/2016/EN/COM-2016-860-F1-EN-ANNEX-2-PART-1.PDF>>.

impact on sectors, regions or vulnerable members of society negatively affected by the transition.

In the document, the EC explains that various existing EU funding mechanisms can be used towards a socially fair transition, mostly by supporting workers' upskilling and reskilling, but also to tackle energy poverty. In addition, a dedicated initiative to be created is mentioned, in order to provide "tailor-made support for the transition in the coal and carbon-intensive industrial regions." This led to the launch of the Platform for Coal Regions in Transition in December 2017, under the motto: "No region left behind",³⁵ which clearly refers to the Sustainable Development Goals' (SDGs) slogan: "no one left behind".³⁶ Although the term of 'Just Transition' is not spelled out in both documents, it is clear that this is the underlying idea and the term will actually be used in a plan elaborated as a result of the Platform,³⁷ and later on, on the EC's webpage on Coal regions in transition.³⁸ Concerning the understanding of the Just (or socially fair) transition, both the presentation of the Clean energy package and the specific initiative for coal regions focus first and foremost on threatened jobs in these areas. However, there are some hints towards a broader interpretation as aspects of solidarity, energy poverty,³⁹ social fairness⁴⁰ or of a bottom-up approach⁴¹ are mentioned.

In November 2018, the EC published a communication where it explicitly refers to Just Transition as one of the "overriding priorities [...] for the transition to a climate neutral Europe".⁴² In this document, the concept is here as well geared towards workers and the (locally impacted) communities, but also "citizens" and has to be "socially fair".⁴³ It also states that "the transition bears the risk to disproportionately affect people with low income, leading to the emergence of some form of energy poverty."⁴⁴ The concept of a broad Just Transition in EU policy documents seems to gain traction with time.

In March 2019, a resolution of the EU Parliament mentioned the Just Transition various times, mostly with a focus on the workforce, but also referring to "social fairness",⁴⁵ the "most vulnerable citizens",⁴⁶ "the need for wide public acceptance of the long-term strategy",⁴⁷ and

³⁵ EC, press release, No region left behind: launch of the Platform for Coal Regions in Transition, Strasbourg, 11 December 2017, available at <https://ec.europa.eu/commission/presscorner/detail/en/IP_17_5165> accessed 13 March 2020 (hereinafter, EC, press release, No region left behind (2017)).

³⁶ UNGA, Resolution 70/1 "Transforming our world: the 2030 Agenda for Sustainable Development", A/RES/70/1, 21 October 2015, Preamble.

³⁷ EC, RE:START-Strategy for economic restructuring of Czech coal regions, available at <https://ec.europa.eu/energy/sites/ener/files/documents/restart-strategy_for_economic_restructuring_of_czech_coal_regions.pdf>.

³⁸ Coal regions in transition, Phasing out of coal and a just transition, available at <<https://ec.europa.eu/energy/en/topics/oil-gas-and-coal/EU-coal-regions/coal-regions-transition#documents>> accessed 21 February 2020.

³⁹ Communication from the Commission, Clean Energy for All Europeans, annex 2, (2016) p. 2.

⁴⁰ EC, press release, No region left behind (2017).

⁴¹ Coal regions in transition, Phasing out of coal and a just transition, available at <<https://ec.europa.eu/energy/en/topics/oil-gas-and-coal/EU-coal-regions/coal-regions-transition#documents>> accessed 21 February 2020.

⁴² Communication from the Commission, A Clean Planet for all, (2018) pp. 24-25.

⁴³ *Id.*, p. 25.

⁴⁴ *Id.*, p. 21.

⁴⁵ European Parliament resolution of 14 March 2019 on climate change – a European strategic long-term vision for a prosperous, modern, competitive and climate neutral economy in accordance with the Paris Agreement (2019/2582(RSP)), para 7.

⁴⁶ *Id.*, para 14.

⁴⁷ *Id.*, para 16.

to the importance of “the distributional effects of climate-related and decarbonisation policies, specifically on people with low incomes”.⁴⁸ A dual, concentric understanding of the concept of Just Transition, at the same time focusing on the workforce and with a holistic view, is taking shape inside of the EU institutions. This concept of concentric understanding of the Just Transition is interpreted and pictured below in figure 1. In the same resolution, the Parliament also proposes to create “a just transition fund, especially for the regions most affected by decarbonisation, such as coal mining regions, combined with a general consideration of the social impacts of existing climate funding.”⁴⁹ This would constitute a new financing mechanism potentially specifically dedicated to the implementation of a just transition.

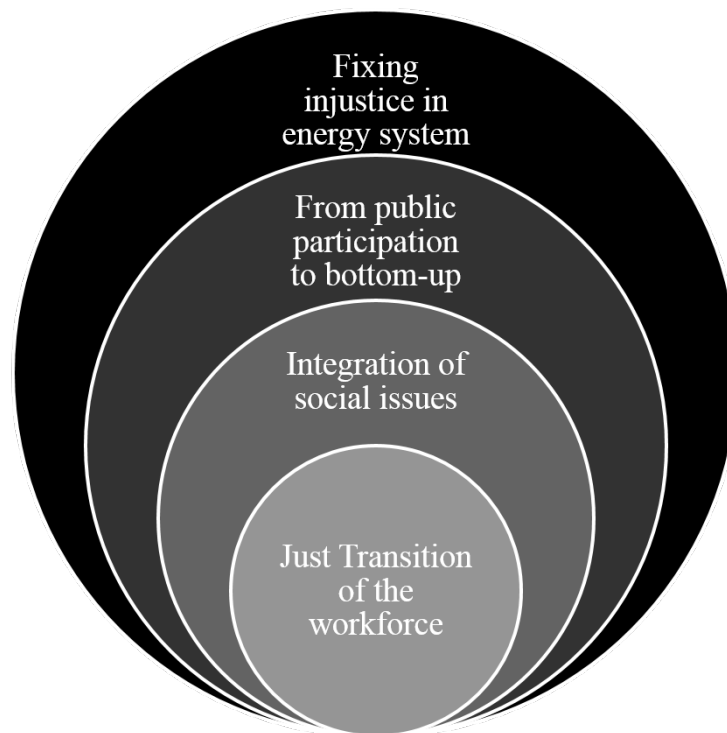


Figure 1: Concentric understanding of the Just Transition concept. Source: The author.

On 11 December 2019, the new EC presented the European Green Deal.⁵⁰ The aim for the EU is to become climate-neutral by 2050 and this will require massive investments. The financial part of this Green Deal is the European Green Deal Investment Plan (EGDIP), revealed on 14 January 2020.⁵¹ This programme should mobilise “at least €1 trillion of sustainable investments” until 2030.⁵² Of this total sum, €100 billion should go to the Just Transition

⁴⁸ *Id.*, para 18.

⁴⁹ *Id.*, para 16.

⁵⁰ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, The European Green Deal, Brussels, 11.12.2019, COM(2019) 640 final (hereinafter, Communication from the Commission, The European Green Deal (2019)).

⁵¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Sustainable Europe Investment Plan, European Green Deal Investment Plan, Brussels, 14.1.2020, COM(2020) 21 final.

⁵² EC, press release, Financing the green transition: The European Green Deal Investment Plan and Just Transition Mechanism, Brussels, 14 January 2020 (hereinafter, EC, press release, Financing the green transition (2020)), p. 1, available at <https://ec.europa.eu/commission/presscorner/detail/en/ip_20_17> accessed 13 March 2020.

Mechanism (JTM) from 2021 to 2027,⁵³ which is divided in three pillars providing grants, or loans to private and public actors.⁵⁴ This is actually the concrete implementation of article 3 (5) of the 2018 Renewable Energy Directive which requires the EC to support “the enhanced use of Union funds, including additional funds to facilitate a just transition of carbon intensive regions”.⁵⁵ The rationale behind this JTM is that “the transition can only succeed if it is conducted in a fair and inclusive way. The most vulnerable are the most exposed to the harmful effects of climate change and environmental degradation.”⁵⁶ As a consequence, the JTM aims at “a fair and just green transition [...] to support workers and citizens of the regions most impacted by the transition.”⁵⁷ As in earlier EU initiatives, the understanding of a concentric Just Transition prevails (see figure 1 above), with a first and direct focus on the workforce of specific regions but also with a broader view in the political discourse, where the vocabulary tends to be very inclusive, with the goal of leaving no one behind, the consideration of the “most vulnerable” and “most exposed to the harmful effects of climate change and environmental degradation”,⁵⁸ the notions of solidarity, fairness and justice,⁵⁹ and the overall focus on people and citizens.

As part of this JTM, the EC proposed to create a Just Transition Fund (JTF) in order to provide grants for smoothening the transition in fossil fuels and carbon-intensive regions of the EU. This fund will have a legal status as a dedicated proposal for a regulation has been revealed on 14 January 2020.⁶⁰ It will be allocated with €7.5 billion⁶¹ and should trigger substantial additional investments by EU member states (MS). In terms of activities supported by the JTF, article 4 (2) of the proposed regulation provides a closed list of activities with a focus placed on socio-economic development or alleviation (workforce re- or up-skilling and local investments in new businesses). However, the energy aspect is not excluded, as JTF’s investments can also be channelled towards the deployment of technologies and infrastructures for affordable clean energy, greenhouse gas emission (GHG) reduction, energy efficiency and RES. According to article 7, projects financed by the JTF can only take place in the most affected regions where a territorial just transition plan is adopted as a result of a process involving the local authorities, the competent MS, and the EC. In a nutshell, this first concrete transposition of the Just Transition principle in EU law is here again based on the concentric understanding highlighted above in figure 1. It mostly targets the workforce, but also integrates some wider actions, such as the improvement of transportation infrastructures or energy poverty alleviation. However, the entirely missing part in this proposed legal regime is the bottom-up construction and more widely people’s involvement.

⁵³ The European Green Deal Investment Plan and Just Transition Mechanism explained, EC, Brussels, 14 January 2020, p. 1, graph., available at <https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_24> accessed 13 March 2020.

⁵⁴ See Romain Mauger, European Green Deal - What is the Just Transition Mechanism?, 6 February 2020, available at <<http://energyandclimatelaw.blogspot.com/2020/02/european-green-deal-what-is-just.html#more>> accessed 22 February 2020.

⁵⁵ Directive (EU) 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 (2018 Renewable Energy Directive).

⁵⁶ Communication from the Commission, The European Green Deal, (2019) p. 16.

⁵⁷ The European Green Deal Investment Plan and Just Transition Mechanism explained, EC, Brussels, 14 January 2020, p. 1, available at <https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_24> accessed 13 March 2020.

⁵⁸ Communication from the Commission, The European Green Deal, (2019) p. 16

⁵⁹ EC, press release, Financing the green transition, (2020) p. 1.

⁶⁰ Proposal for a Regulation of the European Parliament and of the Council Establishing the Just Transition Fund, Brussels, 14.1.2020, COM(2020) 22 final, 2020/0006 (COD).

⁶¹ *Id.*, art. 3.

It is to be noted that as a reaction to the Covid-19 pandemic and the looming economic crisis, both the JTF and the JTM budgets have been increased. The JTF will now be allocated with €10 billion, while the JTM “is now expected to mobilise at least €150 billion of public and private investment.”⁶²

3. The Legal Framework for a Just Transition on EU Islands

Rosemberg presents some research gaps on the Just Transition, among which the first one is the geographical gap.⁶³ Indeed, the effects of the transition toward a low-carbon economy vary largely depending on the regions. This is why the EU is currently focusing on fossil fuels and carbon-intensive regions. Nevertheless, the EC has also launched, as part of the clean energy package, a non-legislative initiative aiming to ensure a ‘fair transition’ focusing on another geographical area: EU islands.⁶⁴

3.1 Challenges and Opportunities for a Just Transition on EU Islands (The Case of the SMILE Islands)

The literature on RES development and energy transitions on islands consistently highlights a list of specific challenges and opportunities that these peculiar geographical areas face on their way towards a 100% RES-powered system. The list of challenges is a long one: high energy costs and dependency from mainland,⁶⁵ depopulation or ‘particular demographics’,⁶⁶ grid stability issues,⁶⁷ lack of economic means or high (energy) poverty rate,⁶⁸ limited space,⁶⁹ lack

⁶² EU budget for recovery: Questions and answers on the Just Transition Mechanism, EC, Brussels, 28 May 2020, available at <https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_931> accessed 28 June 2020.

⁶³ Rosemberg, (2010) p. 149.

⁶⁴ Clean energy for all Europeans package, Non-legislative initiatives, available at <<https://ec.europa.eu/energy/en/topics/energy-strategy/clean-energy-all-europeans>> accessed 22 February 2020.

⁶⁵ Bernd Möller, *et al.*, Creating consciousness about the opportunities to integrate sustainable energy on islands, *Energy* 48 (2012) (hereinafter, Möller, *et al.*, (2012)), p. 339; Antonio Colmenar-Santos, *et al.*, The impact of different grid regulatory scenarios on the development of renewable energy on islands: A comparative study and improvement proposals, *Renewable Energy* 60 (2013) (hereinafter, Colmenar-Santos, *et al.*, (2013)), p. 302; Ioannis Kougiyas, Clean energy and transport pathways for islands: A stakeholder analysis using Q method, *Transportation Research Part D* 78 (2020) 102180 (hereinafter, Kougiyas, (2020)), p. 2.

⁶⁶ Möller, *et al.*, (2012) p. 339; Jan Jantzen, Michael Kristensen and Toke Haunstrup Christensen, Sociotechnical transition to smart energy: The case of Samsø 1997-2030, *Energy* 162 (2018) (hereinafter, Jantzen, Kristensen and Christensen, (2018)), p. 23; Luis Mundaca, Henner Busch and Sophie Schwer, ‘Successful’ low-carbon energy transitions at the community level? An energy justice perspective, *Applied Energy* 218 (2018) (hereinafter, Mundaca, Busch and Schwer, (2018)), p. 296; Jan Petzold and Alexandre K. Magnan, Climate change: thinking small islands beyond Small Island Developing States (SIDS), *Climatic Change* (2019) (hereinafter, Petzold and Magnan, (2019)), p. 14, fig. 2.

⁶⁷ Colmenar-Santos, *et al.*, (2013) p. 302; Hannah Mareike Marczinkowski, Poul Alberg Østergaard and Søren Roth Djørup, Transitioning Island Energy Systems—Local Conditions, Development Phases, and Renewable Energy Integration, *Energies* 12, 3484 (2019) (hereinafter, Marczinkowski, Østergaard and Djørup, (2019)), p. 1; Michael Westrom, Winds of change: Legitimacy, withdrawal, and interdependency from a decentralized wind-to-hydrogen regime in Orkney, Scotland, *Energy Research & Social Science* 60 101332 (2020) (hereinafter, Westrom, (2020)), p. 4.

⁶⁸ Möller, *et al.*, (2012) p. 340; João Pedro Gouveia, Pedro Palma and Sofia G. Simoes, Energy poverty vulnerability index: A multidimensional tool to identify hotspots for local action, *Energy Reports* 5 (2019), p. 187; Philomena de Lima and Andrew Copus, TlPSE - The Territorial Dimension of Poverty and Social Exclusion in Europe, Work Package 2.4 - Case Study Report - Western Isles (2014), p. 11; Orkney Islands Council, Orkney’s Fuel Poverty Strategy 2017-2022 (2017), p. 14.

⁶⁹ Möller, *et al.*, (2012) p. 339; Jantzen, Kristensen and Christensen, (2018) p. 32.

of an adapted legal framework,⁷⁰ missing knowledge,⁷¹ risk of falling into an “eco-island trap”,⁷² and last but by far not least, vulnerability to climate change.⁷³ The list of opportunities is shorter, but the first one should in the end allow to overcome all the barriers: high RES potential,⁷⁴ possibility to reach energy self-sufficiency,⁷⁵ and the predisposition of isolated and small-size territories to become test-beds.⁷⁶ The RES potential has been estimated at global scale for all islands between 1000 and 100 000 inhabitants.⁷⁷ It turns out that the 1800 identified islands could economically incorporate 7.5 GW of photovoltaic and 14 GW of wind capacity to their energy mix which would result in an approximate 50% reduction in GHG emissions and fuel consumption, setting them as energy transition models and bringing substantial economic benefits.⁷⁸

The EU counts approximately 2400 inhabited islands, which are home to 15 million people.⁷⁹ The EC has set the goal to decarbonise 1000 of them by 2030.⁸⁰ In order to progress towards this daunting target, and as a (non-legislative) part of the clean energy package, the EC launched the ‘Clean energy for EU islands initiative’.⁸¹ This initiative is actually the fruit of the Valletta Political Declaration on Clean Energy for EU islands signed by 14 EU MS in 2017.⁸² This document acknowledges the specificities of islands as well as their energy challenges and opportunities but only constitutes a declaration of intention to support EU islands in their ‘clean energy transitions’. The initiative led to the creation of a secretariat to provide support and assistance to the islands on this pathway, for example to draft their transition plans.⁸³ Aside from this, some Horizon 2020 (the EU research funding programme)

⁷⁰ Colmenar-Santos, *et al.*, (2013) p. 308; Philipp Blechinger, *et al.*, Global analysis of the techno-economic potential of renewable energy hybrid systems on small islands, *Energy Policy* 98 (2016) (hereinafter, Blechinger, *et al.*, (2016)), p. 685.

⁷¹ Blechinger, *et al.*, (2016) p. 674; Petzold and Magnan, (2019) p. 14, fig. 2.

⁷² Adam Grydehøj and Ilan Kelman, The eco-island trap: climate change mitigation and conspicuous sustainability. *Area*, 49 (2017), pp. 106–113.

⁷³ Hrvoje Dorotić, *et al.*, Integration of transport and energy sectors in island communities with 100% intermittent renewable energy sources, *Renewable and Sustainable Energy Reviews* 99 (2019) (hereinafter, Dorotić, *et al.*, (2019)), p. 109.

⁷⁴ Möller, *et al.*, (2012) p. 339; Colmenar-Santos, *et al.*, (2013) p. 302; Blechinger, *et al.*, (2016) p. 675; Andrea Eras-Almeida and Miguel Egidio-Aguilera, Hybrid renewable mini-grids on non-interconnected small islands: Review of case studies, *Renewable and Sustainable Energy Reviews* 116 (2019), 109417, p. 1; Dorotić, *et al.*, (2019) p. 109.

⁷⁵ Marczinkowski, Østergaard and Djørup, (2019) p. 1.

⁷⁶ Colmenar-Santos, *et al.*, (2013) p. 310; Kougias, (2020), p. 1.

⁷⁷ Blechinger, *et al.*, (2016) pp. 674-687; Tomas Moe Skjølvold, Marianne Ryghaug and William Thronsen, European island imaginaries: Examining the actors, innovations, and renewable energy transitions of 8 islands, *Energy Research & Social Science* 65 (2020) 101491, p. 1.

⁷⁸ Blechinger, *et al.*, (2016) p. 683.

⁷⁹ EC, Clean Energy for Islands Initiative, undated, available at <https://ec.europa.eu/commission/sites/beta-political/files/clean-energy-islands-initiative_en.pdf>.

⁸⁰ See Izabela Kielichowska, “Promoting Sustainable Energy Systems on European Islands”, 3 April 2018, available at <<https://www.navigantresearch.com/news-and-views/promoting-sustainable-energy-systems-on-european-islands>> accessed 14 March 2020.

⁸¹ EC, Clean energy for EU islands, 6 January 2020, available at <<https://ec.europa.eu/energy/en/topics/renewable-energy/initiatives-and-events/clean-energy-eu-islands>> accessed 14 March 2020.

⁸² See <https://ec.europa.eu/energy/sites/ener/files/documents/170505_political_declaration_on_clean_energy_for_eu_islands_final_version_16_05_20171.pdf>.

⁸³ EC, 26 European islands launch clean energy transition, 18 February 2019, available at <https://ec.europa.eu/info/news/26-european-islands-launch-clean-energy-transition-2019-feb-18_en> accessed 14 March 2020.

calls for proposals focused specifically on geographical (or energy) islands decarbonisation.⁸⁴ Therefore, although the EU took some initiatives to accelerate the development of RES on its islands, its efforts to develop a Just Transition there are much weaker than for fossil fuels and carbon intensive regions.

Some beneficiaries and stakeholders of these islands-specific programmes and initiatives are the partner islands to the H2020 SMILE (Smart Islands Energy System) project: Madeira (PT), Orkney (UK), and Samsø (DK).⁸⁵ These locations represent small, medium and large islands (size- and population-wise) at different stages of their transitions towards a 100% RES-powered energy system.⁸⁶ Two of them are connected to mainland grid (Orkney and Samsø), while one is an energy island (Madeira). As part of this project, all of them implement so-called smart grid technologies (such as electricity batteries, power-to-heat systems, and smart controllers for demand-response) in order to enhance the use of the electricity produced from RES on the islands and to reduce curtailment (Orkney), develop new power generation (Madeira), or decarbonise non-electricity energy sectors (Samsø). The islands of Samsø and Orkney are described as decades-old front-runners for RES development in various academic articles,⁸⁷ which provides useful historical data on their energy transition process for the following developments in this paper.

Islands are very often seen as natural laboratories for the energy transition as they represent a reduced version of a complete energy system.⁸⁸ This is true for Samsø and Orkney too.⁸⁹ In addition, islands tend to also consider themselves as energy transition laboratories.⁹⁰ However, a question remains: Are islands laboratories for Just Transitions, or just for transitions? Indeed, most of the projects realised and the research undertaken on the transition of islands have a technical focus, or are “quantitative in nature”.⁹¹ Nevertheless, according to an emerging literature, islands’ energy transitions can inform not only on technical aspects but also on social aspects, recognised as essential to a successful process,⁹² and provide recommendations for a more adapted regulatory framework towards a (holistically understood) Just Transition, firstly on islands,⁹³ and then maybe in the future on mainland. The SMILE islands of Samsø⁹⁴ and Orkney⁹⁵ can, in this regard, already provide valuable feedback on the ways to develop and the

⁸⁴ See EC, Horizon 2020 Framework Programme (H2020), Decarbonising energy systems of geographical Islands, LC-SC3-ES-4-2018-2020, available at <<https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/opportunities/topic-details/lc-sc3-es-4-2018-2020>> accessed 14 March 2020.

⁸⁵ See for more information: <<https://www.h2020smile.eu/>>.

⁸⁶ Marczinkowski, Østergaard and Djørup, (2019) pp. 1-20.

⁸⁷ Jantzen, Kristensen and Christensen, (2018) p. 20; Marczinkowski, Østergaard and Djørup, (2019) p. 9; Westrom, (2020) p. 4.

⁸⁸ Möller, *et al.*, (2012) p. 339; Colmenar-Santos, *et al.*, (2013) p. 310; Blechinger, *et al.*, (2016) p. 675; Mundaca, Busch and Schwer, (2018), p. 295; Kougias, (2020) p. 1; see also EC, 26 European islands launch clean energy transition, 18 February 2019, available at <https://ec.europa.eu/info/news/26-european-islands-launch-clean-energy-transition-2019-feb-18_en> accessed 14 March 2020.

⁸⁹ Jantzen, Kristensen and Christensen, (2018) p. 23; Marczinkowski, Østergaard and Djørup, (2019) p. 16.

⁹⁰ Smart Islands Initiative, The initiative, About, available at <<http://www.smartislandsinitiative.eu/en/index.php>> accessed 14 March 2020.

⁹¹ Eimear Heaslip and Frances Fahy, Developing transdisciplinary approaches to community energy transitions: An island case study, *Energy Research & Social Science* 45 (2018) (hereinafter, Heaslip and Fahy, (2018)), p. 153.

⁹² Colmenar-Santos, *et al.*, (2013) p. 310; Jantzen, Kristensen and Christensen, (2018) pp. 20-21; Heaslip and Fahy, (2018) pp. 158 & 162.

⁹³ Colmenar-Santos, *et al.*, (2013) p. 309; Westrom, (2020) p. 10.

⁹⁴ Mundaca, Busch and Schwer, (2018); Jantzen, Kristensen and Christensen, (2018) p. 24.

⁹⁵ Westrom, (2020) pp. 9-10.

local appetite for a transition that involves islanders from the start in decision-making, provides them with opportunities, and guarantees a fair distribution of the benefits (and the burdens).

One of the main lessons of a study of Samsø “under the energy justice magnifying glass”⁹⁶ is that “ambitious low-carbon transitions need to be rolled out slowly”.⁹⁷ More than for technical reasons, time is needed to let islanders develop by themselves a Just Transition which is adapted to their needs. On Samsø, collective consultation and decision-making processes have been key to prevent or limit perceived injustice,⁹⁸ and to construct what is now widely recognised as a success.⁹⁹ The problem is that time is a scarce commodity in a context of snowballing climate change.¹⁰⁰ To make things worse, if Samsø has planned and may well reach total decarbonisation by 2030, Orkney and Madeira will most likely only reach a 50% decarbonisation by this date.¹⁰¹ If an island as Orkney, considered a frontrunner in RES development for 30 years,¹⁰² is not able to reach decarbonisation by 2030, it is therefore hard to imagine the decarbonisation of 1000 EU islands by this date, and even harder to let them the time to organise their own bottom-up Just Transition if nothing is done to actively incentivise, support and enhance such endeavour.

The literature highlights in many occasions that each island’s energy system is specific and therefore each transition will be unique.¹⁰³ This is what can be understood from the 2017 Valletta Political declaration when it refers to a tailor-made transition.¹⁰⁴ This assessment tends to limit or at least nuance the replicability of the transition in each isolated laboratory, even for the SMILE islands. This is even more acute when not only technical but also social aspects are taken into account. There is no one (Just) transition model. This raises the question of the adequate legal framework for a Just Transition on EU islands.

3.2 Elements for a Just Transition on EU islands

As seen above, a Just Transition for EU islands does not cover the same meaning as for fossil fuels and carbon-intensive regions. The focus is not as strongly placed on the workforce as islands are already often struggling with their isolation and the subsequent lack of job opportunities.¹⁰⁵ Their transition, to be ‘just’, must be holistic as their problems are holistic in nature.

The legal framework specifically dedicated to islands in EU energy law is limited. Yet, the Treaty on the Functioning of the European Union (TFEU)¹⁰⁶ contains some specific provisions. Article 174, paragraph 3, on economic, social and territorial cohesion, states that the Union

⁹⁶ Mundaca, Busch and Schwer, (2018) p. 292.

⁹⁷ *Id.*, p. 301.

⁹⁸ *Id.*, p. 301.

⁹⁹ *Id.*, p. 293.

¹⁰⁰ *Id.*, p. 301.

¹⁰¹ Marczinkowski, Østergaard and Djørup, (2019) p. 6.

¹⁰² *Id.*, p. 9.

¹⁰³ Möller, *et al.*, (2012) p. 339; Colmenar-Santos, *et al.*, (2013) p. 309; Jantzen, Kristensen and Christensen, (2018) pp. 32-33; Heaslip and Fahy, (2018) pp. 153-154; Marczinkowski, Østergaard and Djørup, (2019) p. 16.

¹⁰⁴ See <https://ec.europa.eu/energy/sites/ener/files/documents/170505_political_declaration_on_clean_energy_for_eu_islands-final_version_16_05_20171.pdf>.

¹⁰⁵ See e.g. Jantzen, Kristensen and Christensen, (2018) pp. 23-24; Mundaca, Busch and Schwer, (2018) p. 296.

¹⁰⁶ Consolidated version of the Treaty on the Functioning of the European Union (TFEU), OJ C 326, 26 October 2012.

shall pay particular attention to the “regions which suffer from severe and permanent natural or demographic handicaps”, such as islands. As a consequence, article 175, paragraph 1, provides that the implementation of the internal market shall take into account the objectives of article 174. This provision opens the door for exemptions to the liberalised energy market on islands. Article 349 gives hints of a derogatory regime for nine so-called ‘outermost regions’ composed of territories far away from continental Europe, among which the SMILE island of Madeira. Even though paragraph 3 of the article requires this derogatory regime not to undermine “the integrity and the coherence of the Union legal order, including the internal market and common policies”, these are the real consequences in the energy field. Indeed, derogations to the heart of the liberalised market regime (unbundling, third party access, freedom of choice of the supplier) have been granted by the EC for outermost regions (including Madeira), mostly on an indefinite basis.¹⁰⁷ Conversely, for other islands closer to EU continental shores, such as the Greek islands, the derogation analysis is much stricter and the ones granted are limited in time.¹⁰⁸ The ultimate goal of EU fundamental energy law is undoubtedly to establish “a system of open and competitive markets [through] interconnection and interoperability of national [energy] networks”, and this includes as much as possible islands.¹⁰⁹

Non-outermost EU islands face various situations. Those that are not interconnected to mainland most likely have a local (or a branch of the historical national) energy vertically integrated operator. Those that are interconnected in principle have to play by the classic rules of EU law. This is the case on Samsø and Orkney islands.¹¹⁰ However, there are some possible derogations to liberalisation rules according to the 2019 Electricity Market Directive if the island can be considered as a small isolated or small connected system and if the EC grants such derogations.¹¹¹ Most importantly, article 66 (2) of the 2019 Electricity Market Directive states that derogations shall “aim to increase competition in and the integration of the internal market and [...] not hamper the transition towards renewable energy, increased flexibility, energy storage, electromobility and demand response.” This is a novelty in comparison to the 2009 Electricity Market Directive.¹¹² This new provision underlines the logic of EU energy law when it comes to islands: derogations to the general regime can be granted, but the priorities are (i) harmonisation of the liberalisation rules with mainland and (ii) the energy transition. The unresolved question here is how would the EC value a local vertically integrated operator that is making headways on its transition to a 100% RES powered island. If both cannot be achieved together, what would be prioritised: Liberalisation or the energy transition?

EU energy law does not contain energy-transition-on-islands specific provisions other than the limited elements presented above. In addition, there is nothing at all on Just Transition on islands, as the Just Transition Mechanism explained in section 2.2 of this article is directed to

¹⁰⁷ Jan Papsch, Derogations and exemptions, in Christopher Jones (ed.), *EU energy law*, volume I, The internal energy market, 4th edition (Claeys & Casteels Publishing 2016), pp. 549-552.

¹⁰⁸ *Id.*, pp. 552-553.

¹⁰⁹ TFEU, art. 170.

¹¹⁰ Romain Mauger, Martha Roggenkamp, SMILE deliverable 7.1, *Regulating Electricity Storage*, 2020, pp. 14-16, available at <https://www.rug.nl/research/portal/files/125261828/D7.1_SMILE_final_rev1.pdf>.

¹¹¹ *Ibid.* For the definition of the small isolated and small connected systems, see Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU (2019 Electricity Market Directive), art. 2 (42) & (43).

¹¹² Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (2009 Electricity Market Directive), art. 44.

other regions.¹¹³ Even the 2016 EU Parliament resolution on the special situation of islands promotes, albeit certainly involuntarily, a “vertical approach” to development strategies on islands,¹¹⁴ while a bottom-up and horizontal one would be more fit for a Just Transition.

To overcome this absence of adapted legal framework for Just Transitions on EU islands, it is therefore necessary to look for secondary solutions and apply unspecific provisions. In this regard, the most promising tool in EU energy law that islands can use to develop their own Just Transition is the energy community. Renewable energy communities (RECs) and Citizen energy communities (CECs) have respectively been integrated to the 2018 Renewable Energy Directive and 2019 Electricity Market Directive.¹¹⁵ In a nutshell, these legal constructions potentially allow local communities to develop, own and operate energy production facilities, energy storage and other smart grids technologies (e.g. for demand response), or distribution grids under some conditions (the communities are just an actor on a free market) and depending on the transposition by MS.¹¹⁶ Their specificity comes from their governance mode which has to be democratic, and their aim which is not profit-making.¹¹⁷

As the literature has shown, islands hold a great potential for energy communities and vice-versa. On various islands, such developments have preceded the clean energy package and its new directives. They have reinforced the local economy by creating more jobs and keeping the benefits on the island,¹¹⁸ they have allowed such communities and by extension the inhabitants to gain knowledge and influence over the energy system,¹¹⁹ islanders themselves have shown strong interest to be involved for an adequate transition to happen,¹²⁰ and the acceptance towards the changes provoked by the transition is usually very good in these cases.¹²¹ However, these positive outcomes are not a given as the energy community provisions in EU energy law are not exclusively and clearly geared towards a Just Transition, but only towards an increased development of RES, if possible with a reinforced local acceptability. Actually, “‘Community benefit’ is not a natural product of renewable energy technology implementation, but of accompanying complex socio-political processes, organizations, and arrangements”,¹²² and the same applies for a Just Transition on EU islands. Indeed, the worst final outcome of the energy transition for EU islands would probably be to see some of them turned into powerhouses for

¹¹³ However, this does not impede EU funding to be attributed to islands projects that would support a just transition. But no specific money has been earmarked for a just transition on islands.

¹¹⁴ European Parliament resolution of 4 February 2016 on the special situation of islands (2015/3014(RSP)), para 14. It is to be noted that in the same sentence the document mentions the principle of subsidiarity, which requests decisions to be taken at the most efficient level, so possibly locally, but it stops at the level of local authorities. In a document with such limited legal value, it would have been possible to request further involvement of local communities and people.

¹¹⁵ For RECs, see art. 22 and for CECs, see art. 16. The main difference between both concepts is that RECs can apply to all energy vectors (electricity, heat, gas), but only from renewable sources, while CECs only apply to electricity and not necessarily from renewable sources (although it’s the intention).

¹¹⁶ See Annalisa Savaresi, *The Rise of Community Energy from Grassroots to Mainstream: The Role of Law and Policy*, *Journal of Environmental Law* 31 (2019), pp. 487-510; On the challenges for the transposition of CECs in national law, see Lea Diestelmeier, *Citizen Energy Communities as a Vehicle for a Just Energy Transition in the EU – Challenges for the Transposition* (published in the same special issue).

¹¹⁷ For RECs, see art. 2 (16) (c) and for CECs, see art. 2 (11) (b).

¹¹⁸ Pablo del Rio and Mercedes Burguillo, *Assessing the impact of renewable energy deployment on local sustainability: Towards a theoretical framework*, *Renewable and Sustainable Energy Reviews* 12 (2008), p. 1330; Möller, *et al.*, (2012) p. 340; Westrom, (2020) pp. 6-8.

¹¹⁹ Möller, *et al.*, (2012) p. 340; Westrom, (2020) pp. 6-10.

¹²⁰ Heaslip and Fahy, (2018) pp. 158 & 162.

¹²¹ Heaslip and Fahy, (2018) p. 162; Mundaca, Busch and Schwer, (2018) p. 299; Jantzen, Kristensen and Christensen, (2018) p. 24.

¹²² Westrom, (2020) p. 1.

the mainland, with islanders losing control over large-scale RES projects deployment reproducing the injustices of the current energy system.¹²³ In the end, for a Just Transition, the justice aspect matters more than the technical one, and still it is the one that is ignored in the relevant legal frameworks.

4. Conclusion

This article has analysed the emergence and the varying interpretations of the concept of Just Transition. This concept is increasingly used in EU initiatives, policy and law with what this author calls a concentric understanding: concentrating its efforts on the classic, workforce-focused idea, to expand with a progressively diluted strength to some more holistic issues such as transportation infrastructure development or energy poverty. However, the aspects of local involvement, bottom-up transition, and fairness of the process are missing, just as the aim of fixing the injustices of the past and current energy system. Conversely, this author proposed an ambitious framework to be used by the EU for a fair transition to a sustainable, low-carbon economy. In addition to the above, EU islands, which are qualified energy transition laboratories, are mostly left aside from these burgeoning Just Transition initiatives focusing on fossil fuels and carbon-intensive regions.

This article has shown that islands hold a great potential for being not only (technical) energy transition test-beds, but Just Transition test-beds. Although there is no islands-specific adequate regime under EU energy law to foster such developments, a smart and ambitious use of the new energy community provisions can to a great extent fill such a gap as the cases of the SMILE islands of Orkney and Samsø have shown. This would allow immediate action as EU energy law will likely not change soon since the clean energy package is not even transposed into Member States' law yet, and this would let each island with the possibility to develop its own specific, locally adapted, and bottom-up transition. The EU and its Member States could then help accelerate and reinforce these locally-piloted transitions with financial support for locally-owned RES deployment and by facilitating national legal frameworks for energy communities. Under these conditions, EU islands could show the mainland the way towards a Just Transition leaving no one, nowhere, behind.

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¹²³ Such developments already happened in many countries but not necessarily on islands, see Paola Villavicencio Calzadilla and Romain Mauger, The UN's new sustainable development agenda and renewable energy: the challenge to reach SDG7 while achieving energy justice, *Journal of Energy and Natural Resources Law* 36(2) (2017), pp. 233–254.