

ENERGY

NEW LEGAL FRAMEWORK OF THE SEN |
DECREE-LAW NO. 15/2022, OF 14 JANUARY
SELF-CONSUMPTION

VdA EXPERTISE



January 2022

Decree-Law no. 15/2022, of 14 January 2022 ("DL 15/2022") is the new piece of the legislation applicable to self-consumption and energy communities, which had so far been regulated by a separate act. The new act's amendments to the existing legal framework seek to streamline procedures, encourage the adoption of self-consumption solutions and facilitate energy sharing between consumers.

Decentralizing the means of generation is one of the energy policy's cornerstones, which will enable efficient grid management in bringing production and consumption closer together, while enhancing renewable installed capacity.

The concept of Self-Consumption Generation Unit (*Unidade de Produção para Autoconsumo*) ("UPAC") comprises one or more renewable source generation units that may or may not include storage facilities and are connected to one or several facilities for the use of any energy generated.

UPACs are first and foremost designed for self-consumption, but any excess electricity generated can be sold to the grid through organized markets or bilateral contracts. Self-consumers are further entitled to request the issue of certificates of origin for any excess electricity injected into the grid.

Self-consumers can operate storage facilities irrespective of whether they are connected to the UPAC or the consumer facilities, without being subject to any cost duplication, notably grid access costs. They can also operate direct lines if there is no access to the public grid, or establish and operate internal systems, including closed distribution systems.

One other novelty is that self-consumption generation units can be connected to self-consumer-owned or third-party managed storage facilities.

Both options require the UPAC to be in the proximity of the use facility or facilities, connected either through the public grid, an internal system, or direct systems.

DL 15/2022 clarifies the concept of proximity, which is a requirement for carrying out the activity. The concept foresees that the relevant UPAC and use facilities shall be located within less than 2 km or connected to the same switching station or the same substation. Use facilities must be located within no more than 4 km for UPACs connected to medium voltage, 10 km for UPACs connected to high voltage, and 20 km for UPACs connected to very high voltage. The act opens the door to a case-by-case assessment of proximity, which must be determined by the DGEG in the light of energy optimization and the provision of basic public services.

FEATURES OF COLLECTIVE SELF-CONSUMPTION

Collective self-consumption is defined as power generation units connected to more than one use facility.

Collective self-consumers must approve internal regulations setting forth requirements for the access and exit of collective self-consumption members, majorities required for passing resolutions, requirements regarding energy sharing, tariff and surplus payment to manage collective self-consumption properly.

Those regulations must then be notified to the DGEG within three months after the UPAC's date of commissioning.

Under the new framework, consumers strengthen their role in the National Electrical System and become active players, individually or collectively generating electricity for self-consumption, selling excess electricity, and providing services to the system, which will bring about a more efficient management with plain environmental, economic and social benefits.

Collective self-consumers must appoint the collective self-consumption managing entity (*entidade gestora do autoconsumo coletivo*) ("EGAC"), which will then ensure the operational management of the activity.

If the UPAC is connected to the public grid, the EGAC is required to notify the grid operator of how the UPAC's generation will be shared among self-consumers.

LICENSING

The UPAC's licensing procedure is the same as for any other electricity generation power plants, which means that a prior control certificate must be issued to the self-consumer (or the EGAC) according to the station's installed power, in addition to the following certificates:

- Production licence and operation licence for UPACs with installed power greater than 1 MW;
- Prior registration and operation certificate for UPACs with installed power between 30 kW and 1 MW;
- Prior communication for UPACs with installed power between 350 W and 30 kW.

UPACs with installed capacity of up 3350 W are not subject to prior control, regardless of any excess electricity injection into the grid.

DL 15/2022 further establishes that grid operators will only need to be consulted if the facility's power is greater than 50% for a BTN consumption profile, 50% of the power required for other consumption profiles, 30 kVA when connected to low voltage, or 100 kVA when connected to the distribution or transmission grid (the RND or the RNT).

Grid operator consultation can only be waived until such time as the injection capacity into the grid to be provided to UPACs runs out. Such injection capacity is a quota annually set by the Government.

RENEWABLE ENERGY COMMUNITIES

Energy communities (*comunidade de energia*) ("CER") were already a concept in 2019. The same are defined as legal persons created through the open and voluntary adherence of their members, which can be natural or corporate persons, including companies or local government, whose stakeholders are in the proximity of renewable energy projects or generate renewable energy, and whose goal is to generate environmental, economic or social benefits for their members instead of profit.

The same provisions apply to energy communities and self-consumption, although energy communities are allowed to market as well as share the electricity between members (subject always to the community's members retaining their rights and obligations as consumers). CERs can also access the energy markets, including the system services markets, either directly or through aggregation.

CITIZEN ENERGY COMMUNITIES

DL 15/2022 introduces a new concept, namely citizen energy communities (*comunidades de cidadãos para a energia*) ("CCE") which, much like the CERs, are legal persons created through the open and voluntary adherence of their members, which can be natural or corporate persons, including companies or local government, and whose goal is to generate environmental, economic or social benefits for their members or the areas where they operate instead of profit (which cannot be their main purpose).

But these communities can own, establish, buy or lease closed distribution systems and manage them, and they can generate as well as distribute, consume, aggregate and store electricity, regardless of whether the primary source is renewable or non-renewable.

Self-consumers that are members of ACCs, CERs or CCEs are jointly liable for the performance of any duties and obligations incumbent upon them.

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