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ECOWAS RENEWABLE ENERGY DEVELOPMENT LEGAL AND POLICY FRAMEWORK: ANALYSING THE IMPACT OF REGIONAL INTEGRATION ON ENERGY TRANSITION AND SUSTAINABLE DEVELOPMENT

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Bachelor of Laws (LLB)
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Masters in Oil, Gas and Renewable Energy Law (LLM)

Submitted in fulfilment of the requirements of the Degree of Doctor of Philosophy
School of Law, College of Social Sciences, University of Glasgow

October 2025

School of Law

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Abstract

A strong legal and policy framework underpins the successful development of renewable energy. The Economic Community of West African States (ECOWAS) has established a pioneering regional legal and policy framework, including the ECOWAS Renewable Energy and Energy Efficiency Policies, to promote an energy transition and advance sustainable development. However, the region continues to face acute energy poverty and low deployment of renewable energy infrastructure, signalling a significant policy implementation gap. This research critically examines the ECOWAS legal and policy framework for renewable energy development. Therefore, this research investigates if and how regional integration and cooperation can promote renewable energy development and support the energy transition in the ECOWAS sub-region, drawing on relevant lessons from the European Union.

The research objectives are as follows: to investigate the global legal framework for renewable energy development; review the ECOWAS' approach to regional integration; evaluate global concepts of regional integration in support of renewable energy development, sustainable development, and energy transition; and conduct a critical assessment of ECOWAS laws and policies related to renewable energy development. Additionally, this research offers a comparative analysis of the legal frameworks of the European Union (EU) and ECOWAS concerning renewable energy development and energy transition. Consequently, this research argues that the specific legal form of regional integration is a crucial factor in shaping legal and policy outcomes. This research employs doctrinal legal analysis to identify significant legal and policy gaps within the ECOWAS legal regime and institutional structures, particularly in enforcement, implementation, evaluation, monitoring, and regional cooperation.

Furthermore, a comparative method examines the ECOWAS framework in relation to the EU's advanced energy governance model. Theoretically, the research explores the interaction between neofunctionalism and intergovernmentalism

approaches to regional integration. This research argues that the EU's success can be attributed to a neofunctionalist approach, where integration in energy policy has prompted spillover effects, encouraging deeper political and economic union, supported by strong supranational institutions. In stark contrast, ECOWAS remains fundamentally intergovernmental, prioritising national sovereignty, which results in a framework hindered by voluntary compliance, weak implementation plans, and a lack of robust enforcement, evaluation, and monitoring mechanisms. The analysis concludes that this intergovernmental character impedes the creation of a coordinated legal framework for renewable energy and hampers investment in the ECOWAS region. While politically pragmatic, it causes a fundamental disconnect between regional aspirations and national implementation. This research recommends an adapted approach towards a supranational regional renewable energy legal and policy framework for ECOWAS, incorporating stronger accountability measures and context-specific capacity-building provisions to mitigate energy poverty and support the energy transition and sustainable development. Specifically, this research makes significant contributions to knowledge in the field of regional integration, particularly in the context of legal frameworks, by providing in-depth insights into the binding aspects of the ECOWAS integration legal system, with a focus on renewable energy governance structures, institutions, and systems.

Keywords: *ECOWAS, Renewable Energy, Legal Framework, Policy, Regional Integration, Neofunctionalism, Intergovernmentalism, Energy Transition, Sustainable Development, Comparative Research Method, EU, Supranationalism, Energy Poverty.*

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Author's Declaration

I declare that, except where explicit reference is made to the contributions of others, this thesis is the result of my own original work and has not been submitted for any other degree at the University of Glasgow or any other academic institution.

Printed Name: Ebiere Japhet

Signature:

Abbreviations

AFDB	African Development Bank
ACER	Agency for the Cooperation of Energy Regulators
ASEAN	Association of Southeast Asian Nations
AU	African Union
CEEAG	Climate, Environmental Protection and Energy
CEP	Committee of Eminent Persons
CFA	French Colonies of Africa-Currency
CJEU	Court of Justice of the European Union
COP28	28th Conference of the Parties
EAC	East African Community
EBID	ECOWAS Bank of Investment and Development
ECCAS	Economic Community of Central African States
ECOWAS	Economic Community of West African States
ECREEE	ECOWAS Centre for Renewable Energy and Energy Efficiency
ESAREP	ECOWAS Supplementary Act on Renewable Energy Policy
ECSC	European Coal and Steel Community
EEC	European Economic Community
EEEP	ECOWAS Energy Efficiency Policy
EMU	Economic and Monetary Union
ENTSO-E	European Network of Transmission system Operators for Electricity
EPSRA	Nigeria Electric Power Sector Reform Act
EREII	ECOWAS Renewable Energy Investment Initiative
EREP	ECOWAS Renewable Energy Policy
ERERA	ECOWAS Regional Electricity Authority
EU	European Union
EURATOM	European Atomic Energy Community
ERDF	European Regional Development Fund

FiT	feed-in tariff
GSGDA2	Ghana Shared Growth Development Agenda II
GHG	greenhouse gas emissions
ICSID	International Centre for Settlement of Investment Disputes
IEA	International Energy Agency
IGAD	Intergovernmental Authority on Development
INDCs	Intended Nationally Determined Contributions
IPCC	Intergovernmental Panel on Climate Change
IPPs	Independent Power Producers
IRENA	International Renewable Energy Agency
MERCOSUR	the Southern Common Market
MS	Member States
MW	megawatts
NACEC	North American Commission for Environmental Cooperation
NAFTA	North American Free Trade Agreement
NATO	North Atlantic Treaty Organization
NBMBY	Not Behind My Backyard
NDCs	Nationally Determined Contributions
NECPS	National Energy and Climate Plans
NREAP	National Renewable Energy Action Plans
NREAPs	National Renewable Energy Action Plans
OAU	Organisation of African Unity
OPEC	Organisation of Petroleum Exporting Countries
PPPs	Public-Private Partnerships
PURC	Public Utilities Regulatory Commission
RE	Renewable energy
RES	Renewable Energy Sources
REDP	Renewable Energy Development and Management Programme
REEEP	Renewable Energy and Energy Efficiency Policy Action
RESMP	Rural Electricity Strategy and Master Plan
RREA	Rural and Renewable Energy Act of 2015
SADC	Southern African Development Community
SDGs	Sustainable Development Goals
SE4ALL	Sustainable Energy for All Forum

SEA	Single European Act
SHS	Solar Home Systems
SNEP	Strategic National Energy Plan
SREP	Scale Up Renewable Energy
TEU	Treaty of the European Union
TFEU	Treaty on the Functioning of the European Union
TGC	Tradable Green Certificate
UEMOA	Conseil de l'Entente and the West African Economic and Monetary Union
UNCED	United Nations Conference on the Environment and Development
UNDP	United Nations Development programme
UNFCCC	United Nations Framework Convention on Climate Change
UNTC	UN Treaty Collection
USAID	United Nations Agency for International Development
USSR	Union of Soviet Socialist Republics
WACEC	West African Clean Energy Corridor
WAEC	West African Economic Community
WAGPA	West African Gas Pipeline Authority
WAPP	West African Power Pool
WHO	World Health Organisation

CHAPTER ONE

BACKGROUND AND OVERVIEW OF THE RESEARCH

1.1 Introduction

Fossil fuels, despite their environmental challenges, provide most of the world's energy needs. However, issues such as unequal distribution, price instability, ecological damage, and supply dependence on fossil fuels have necessitated a rethink of their development and utilisation, and, consequently, the search for alternative energy sources.[1] Accordingly, efforts to mitigate environmental harm and address climate change issues arising from fossil fuel extraction have led to global, regional, and national interventions, including adjudication, advocacy, treaty commitments, and binding emissions targets.[2] As of 2023, approximately 600 million people in sub-Saharan Africa lack access to electricity.[3] In the same vein, with some of the highest electricity costs, 220 million people in West Africa lack access to electricity, not least to a clean and sustainable energy supply.[4] Consequently, the need to create a balanced, innovative, cooperative, and transformative legal and policy framework for the fast-growing energy transition and the energy future of the citizens cannot be overstated.[5] Therefore, this research examines whether the ECOWAS renewable energy legal and policy framework, when viewed through the lens of the regional integration framework, possesses the legal authority, institutional capacity and governance mechanisms

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[1] Eduardo G Pereira, Thomas L Muinzer and Patrick R Baker, *Sustainable development goals: host government instrument for sustainability in oil and gas operations* (Routledge research in energy law and regulation 2024) 1, 3.

[2] James Bacchus and Jim Bacchus, *The Willing World: Shaping and Sharing a Sustainable Global Prosperity* (Cambridge University Press 2018) ch 1.

[3] International Energy Agency, 'Access to electricity' < https://www.iea.org/reports/sdg7-data-and-projections/access-to-electricity > accessed 4 March 2025.

[4] Consultancy.africa, 'Accelerating renewable energy investment in West Africa' (*Consultancy.africa,* 31 January 2024) <https://www.consultancy.africa/news/2015/accelerating-renewable-energy-investment-in-west-africa> accessed 13 June 2025.

[5] Precious Oluwaseun Okedele, Onoriode Reginald Aziza, Portia Oduro, and Akinwale Omowumi Ishola, 'Global legal frameworks for an equitable energy transition: Balancing growth and justice in developing economies' (2024) 6(12) IJARSS 2878-2891 <https://fepbl.com/index.php/ijarss/article/view/1765> accessed 15 August 2025.

necessary to drive a meaningful energy transition and sustainable development in the sub-region.

Theoretically, this research reviews major theories of regional integration, including neofunctionalism, supernationalism, and intergovernmentalism, and applies these frameworks to assess ECOWAS' integration model in comparison to the EU, particularly, their governance structure and institutional competences. Accordingly, this research thoroughly examines ECOWAS integration, its overarching legal and policy framework for renewable energy development and energy transition, and its governance structure. Furthermore, this research outlines a pathway to a sustainable energy future for the ECOWAS sub-region, emphasising the need for ECOWAS integration to incorporate selected supranational and neofunctionalist elements tailored to its regional context, thereby enhancing its governance structure and institutional competence, fostering renewable energy development, and facilitating the energy transition. Globally, the renewable energy sector is growing because renewable energy sources remain the primary alternative to fossil energy sources and a remedy for global environmental problems, such as climate change, global warming, and forest degradation. For instance, the World Bank Group, in its climate brief on energy transition and universal energy access, aptly notes that the success of energy transition requires a strong policy framework for both developed and developing countries, which could in turn create jobs, strengthen climate resilience, and reduce exposure to unpredictable fossil fuel prices.[6]

Finally, this research highlights the need for ECOWAS member states to collaborate towards promoting renewable energy development and an energy transition legal framework. In this regard, this research argues that a binding legal and policy framework can ensure the effective implementation of various policies and programmes that support the energy transition, promote renewable energy development, and address the existing global environmental challenges. This research further contends that a legally binding framework is vital for the

[6] World Bank Group, 'COP26 Climate Brief: Energy Transition and Universal Access' < https://thedocs.worldbank.org/en/doc/e7fbd4099b9a937ff2d775e0f38aaa98-0020012021/original/COP26-ClimateBriefs-EnergyTransition-Final-2610.pdf > accessed 6 January 2025.

implementation, monitoring, and evaluation of renewable energy development and energy transition policies and programmes to have a regional impact, as well as for ensuring accountability, inclusivity, and transparency.[7] Therefore, this research critically examines how the ECOWAS legal framework aligns with these priorities in the formulation of its renewable energy and energy transition laws and policies.

1.2 Overview and Context of ECOWAS Renewable Energy Development and Energy Transition Legal and Policy Framework

1.2.1 Africa – West Africa- ECOWAS and Energy Access in Brief

Africa is endowed with a wealth of natural resources, including vast deposits of fossil fuels and numerous renewable energy sources, such as biomass, geothermal, hydro, tidal, solar, wave, and wind energy.[8] However, Sub-Saharan Africa, with 14 per cent of the world's population, has most of its people lacking access to electricity.[9] Therefore, improving energy access could significantly influence its economic, social, and political future. This research examines West Africa's renewable energy sector from the perspective of ECOWAS. The ECOWAS Treaty is a multilateral agreement signed in 1975[10] and revised in 1993[11] by the member states of the ECOWAS.

The ECOWAS Treaty primarily aims to promote economic integration in all activities among its member states.[12] ECOWAS headquarters, previously a Secretariat, was changed to a Commission by the member states in 2007 to enable

[7] Piyush Verma, 'Energy Governance: Four Ways to succeed' (*UNDP*, 25 October 2022) <https://www.undp.org/blog/energy-governance-four-ways-succeed > accessed 4 Jan 2025.
[8] International Renewable Energy Agency (IRENA), 'Africa 2030: Roadmap for a Renewable Energy Future' (2015) IRENA pt 1 <https://www.irena.org/-/media/Files/IRENA/Agency/Publication/2015/IRENA_Africa_2030_REmap_2015_low-res.pdf> accessed 13 June 2025.
[9] Nicolo Sartori and Lorenzo Colantoni, 'Empowering Africa' in Lorenzo Colantoni Giuseppe Montesano and Nicolo Sartori (eds), *Empowering Africa: Access to power in the African Continent* (Peter Lang, Wabernstrasse, Switerland 2019) ch 1.
[10] Treaty of the Economic Community of West African States Treaty 1975.
[11] Treaty of the Economic Community of West African States (Revised) 1993.
[12] ibid art 3.

ECOWAS to better fit into the international environment.[13] The change is to ensure equity, transparency and greater functionality and to achieve its vision based on the principles of good governance, democracy, and the rule of law, as well as global best practices.[14] This is because, while serving as a secretariat, the office was solely responsible for the secretarial, clerical, and administrative affairs of the ECOWAS institutions. However, as a commission, it has the authority to oversee the overall success and promotion of ECOWAS integration across its economic, security, and social dimensions.

Article 3 of the ECOWAS (revised) Treaty of 1993 outlines the fundamental principles of the ECOWAS, clearly stating its main objectives. These include equality and interdependence, collective self-reliance, interstate cooperation, harmonisation of policies, and integration of its programmes.[15] Under its new legal regime, the ECOWAS sources of law include Supplementary Acts, Regulations, Directives, Decisions, Recommendations, and Opinions.[16] The ECOWAS Heads of Government enact supplementary acts, which are directly applicable and binding on all member states. The Council of Ministers enacts regulations, Directives, and Decisions that are enforceable and binding on the member states.[17] At the same time, the Commission makes Recommendations and gives Opinions, which are neither enforceable nor binding on the member states.[18] The ECOWAS legal regime, its sources of law and institutional coordinates are discussed in detail in Chapter Two of this research.

Following the 1970s oil crisis, ECOWAS adopted an energy policy in 1982 that recognised the importance of energy to the economic and social development of its citizens and its various sectors.[19] A key aim of the 1982 policy was to establish a regulatory and policy framework that promotes renewable energy development

[13] ECOWAS Commission, 'About the Commission' <http://www.comm.ecowas.int/about-ecowas/> accessed 13 January 2025.
[14] ibid.
[15] ECOWAS Treaty 1993 (n 11) art 3.
[16] ECOWAS, 'New Regime for Community Acts' <https://www.ecowas.int/ecowas-law/find-legislation/> accessed 13 January 2025.
[17] ibid.
[18] ibid.
[19] Economic Community of West African States, 'ECOWAS Energy Policy Updated' (2023) 1, 3 <https://eis.ecowas.int/assets/front/medias/doc/media_20231011104957.pdf > accessed 3 March 2025.

and facilitates energy transition.[20] However, a close reading of the 2023 ECOWAS Energy Policy Update shows that the 1982 Energy Policy has not substantially influenced the use and development of renewable energy resources, nor fostered the energy transition in the sub-region.[21] Nonetheless, the 1982 policy laid the groundwork for the current ECOWAS renewable energy and energy transition. For instance, in 2003, ECOWAS established its Energy Protocol, nearly identical to the 1994 Energy Charter Treaty,[22] a development that could be attributed to the 1982 Policy. Furthermore, the ECOWAS established the ECOWAS Centre for Renewable Energy and Energy Efficiency (ECREEE), the ECOWAS Regional Electricity Authority (ERERA), the West African Gas Pipeline Authority (WAGPA), and the West African Power Pool (WAPP) to achieve its aim of increasing access to electricity for its citizens and businesses.

In essence, the above institutions and regulatory measures were to ensure integration and cooperation in the ECOWAS energy sector. However, this research finds that to date, these institutions have not been able to realise the set aims and objectives of the ECOWAS because the ECOWAS energy sector comprises mainly isolated national systems with proven inadequacies in meeting the rising energy needs of the ECOWAS citizenry. In Section 1.2.3, some of the inadequacies discussed include weak policy harmonisation and legal uncertainties, a lack of cross-border infrastructure, and weak technological transfer and capacity building. Crucially, the current ECOWAS renewable energy sector lacks a binding regional-level legal framework that incorporates implementation, monitoring, evaluation, and compliance mechanisms for renewable energy policies and programmes. By contrast, the EU, as outlined in the Treaty on the Functioning of the European Union (TFEU),[23] includes a separate section for energy,[24] and Sustainable Development is a fundamental and overarching objective of the EU.[25]

[20] ibid.
[21] ibid.
[22] James Chalker, 'Article 17(1) of the ECOWAS Energy Protocol' (2008) 6 (3) OGEL 3 <www.ogel.org/article.asp?key=2816> accessed 13 January 2025.
[23] Treaty on the Functioning of the European Union (TFEU) 2009.
[24] ibid 194.
[25] ibid 11.

On matters related to renewable energy development and energy transition, the ECOWAS clearly states that its policies are based on the European Union's policies on renewable energy development and energy efficiency, as these have proven helpful over the years in facilitating the adoption and implementation of renewable energy and energy efficiency policies.[26] Indeed, the legal and policy framework governing renewable energy development within the EU is continuously evolving, indicating potential lessons to be learned. For instance, the EU's Renewable Energy Regulations[27] and Directives[28] establish binding national targets to achieve the EU's overall renewable energy objectives. As discussed in section 1.2.3 below, binding legal instruments foster regulatory certainty, accountability, and investment, whereas non-binding frameworks often face implementation gaps. For example, Zhu, in evaluating a related subject—climate change governance in China—emphasises the importance of legally binding climate legislation in China's efforts to protect its 'community of common destiny' from the severe environmental impacts of climate change.[29] This also highlights the importance of a mandatory legal and policy framework, similar to the EU's, to address common concerns and encourage the shift from fossil fuels to renewable energy sources, as the energy transition involves protecting the environment from the harmful effects of fossil fuel extraction.

Furthermore, the EU also formed the Energy Union to deliver on its Paris Agreement commitments, including the energy transition and the promotion of

[26] ECOWAS Centre for Renewable Energy and Energy Efficiency (ECREEE), 'Overview of ECREEE' <https://www.ecreee.org/overview/> accessed 13 January 2025.
[27] European Parliament and Council Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Change Action; Commission Implementing Regulation (EU) 2020/1294 on the Union renewable energy financing mechanism; European Parliament and Council Regulation (EU) 2021/1119 establishing the framework for achieving climate neutrality.
[28] European Parliament and Council Directive 2001/77/EC on the promotion of electricity produced from renewable energy sources; European Parliament and Council Directive 2009/28/EC on the promotion and of the use of energy from renewable sources; European Parliament and Council Directive (EU) 2018/2001 on the promotion and of the use of energy from renewable sources (recast); European Parliament and Council Directive (EU) 2023/2413 on the promotion of the use of energy from renewable sources.
[29] Mingzhe Zhu, 'The Rule of Climate Policy: How Do Chinese Judges Contribute to Climate Governance without Climate Law?' (2022) 11(1) TEL 138, 139 < https://www.cambridge.org/core/journals/transnational-environmental-law/article/rule-of-climate-policy-how-do-chinese-judges-contribute-to-climate-governance-without-climate-law/41A922D370E2E373389F521BEE54511F > accessed 19 September 2025.

renewable energy technologies.[30] Nevertheless, this does not imply that the EU encounters no challenges in developing and transitioning to renewable energy, as exemplified in Chapter Five of this research. Notably, in evaluating the measures implemented by the EU, it is pertinent to consider whether the current legal regime of ECOWAS could be utilised to enhance energy access, security, supply, and affordability within the ECOWAS sub-region. This is because the current ECOWAS institutional framework lacks the legal authority and expertise necessary to establish a binding legal and policy framework for renewable energy development and energy transition. Consequently, Chapter Five is a critical analysis of the EU and ECOWAS legal and policy framework for renewable energy development and energy transition, illustrating how a legally binding framework and a dynamic approach to regional integration and cooperation in the renewable energy sector can facilitate the energy transition in the ECOWAS sub-region, drawing on the EU's experience.

1.2.2 Sustainable Development

Sustainable development implies a conscious effort by the current generation to meet its own needs without jeopardising the means of future generations to satisfy their wants.[31] Additionally, sustainable development is about securing economic, social, and environmental growth. Accordingly, the United Nations (UN) has established the Seventeen Sustainable Development Goals (SDGs) to guide governments and legislators in formulating international, regional, and national legal frameworks to achieve sustainable development, encompassing the security of all facets of life.[32] For instance, Sustainable Development Goal 1 is 'No Poverty', calling on countries to end poverty in all forms,[33] while Sustainable Development Goal 7 is on 'Affordability and Clean Energy' to ensure access to affordable, reliable, sustainable, and modern energy for all.[34]

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[30] Regulation (EU) 2018/1999 (n 27).

[31] Hussien Hegab, Ibrahim Shaban, Muhammad Jamil and Navneet Khanna, 'Toward sustainable future: Strategies, indicators, and challenges for implementing sustainable production systems' (2023) 36 SMT <https://doi.org/10.1016/j.susmat.2023.e00617.> accessed 27 June 2025.

[32] Sustainable Development Goals Knowledge Hub, 'Sustainable Development Goals' < https://sdg.iisd.org/sdgs/ > accessed 8 March 2025.

[33] Sustainable Development Goals, 'Goal 1: No Poverty' < https://sdg.iisd.org/sdgs/goal-1-no-poverty/ > accessed 8 March 2025.

[34] Sustainable Development Goals 'Goal 7: Affordability and Clean Energy' < https://sdg.iisd.org/sdgs/goal-7-affordable-clean-energy/ > accessed 8 March.

Goals 1 and 7 are directly relevant to this research because they advocate for a regional effort to achieve the SDGs by addressing energy poverty and enhancing access to electricity through improved energy security, supply, and affordability in the ECOWAS sub-region. For instance, the ECOWAS citizenry accounts for a significant proportion of the world's relatively poor population, as well as the 600 million people in sub-Saharan Africa without access to electricity noted above. Additionally, the International Renewable Energy Agency (IRENA),[35] the International Energy Agency (IEA),[36] and the UN have reiterated, in their call for reduced dependence on fossil fuels, the need for a shift in investment and support from fossil fuels to new and renewable forms of energy, toward a net-zero economy. This calls for a global and cooperative effort to reconstruct energy laws and policies in favour of the development and use of renewable energy sources, thereby creating support schemes through legislation and investment for the relevant technologies, investments, and innovations in the renewable energy sector.

According to Bogdanov and others in their article entitled 'Low-cost Renewable Electricity as the Key Driver of the Global Energy Transition Towards Sustainability', 'Climate change threats and the necessity to achieve global SDGs demand unprecedented economic and social shifts around the world, including a fundamental transformation of the worldwide energy system'.[37] Bogdanov and others further argue that the energy transition is underway in most regions, predominantly in the power sector.[38] In other words, this illustrates that the majority of regions are pursuing an energy transition pathway that could propel

[35] IRENA, 'The Renewable Energy Transition in Africa: Powering Access, Resilience and Prosperity' (2021) <https://www.irena.org/-/media/Files/IRENA/Agency/Publication/2021/March/Renewable_Energy_Transition_Africa_2021.pdf > accessed 25 April 2025.

[36] International Energy Agency, 'Africa in an Evolving Global Context' (2022) Africa Energy Outlook < https://www.iea.org/reports/africa-energy-outlook-2022/key-findings > accessed 25 April 2025.

[37] Dmitrii Bogdanov, Manish Ram, Arman Aghahosseini, Ashish Gulagi, Ayobami Solomon Oyewo, Michael Child, Upeksha Caldera, Kristina Sadovskaia, Javier Farfan, Larissa De Souza Noel Simas Barbosa, Mahdi Fasihi, Siavash Khalili, Thure Traber and Christian Breyer, 'Low-cost renewable electricity as the key driver of the global energy transition towards sustainability' (2021) 227 EJ <https://doi.org/10.1016/j.energy.2021.120467.> accessed 15 June 2025.

[38] ibid.

the world from the current fossil-based system to a secure, sustainable, efficient, and affordable energy future. This research argues that ECOWAS integration should be leveraged in the sub-region to drive a standard for the energy transition.

Understanding the nexus between energy transition and sustainable development requires a thorough review of the current academic and legal literature. This approach provides a contextual perspective and background to reveal existing knowledge of the inherent obstacles to the transition from fossil fuels to renewables across global, regional, and sub-regional contexts, including the EU and ECOWAS. SDG 7 emphasises the need to provide modern, sustainable, affordable, and reliable energy to all individuals.[39] Accordingly, there is optimism that its implementation will lead to a much-needed energy transition. Although the international community has made significant efforts to establish a voluntary follow-up and review framework to facilitate the achievement of these objectives, their actual implementation, particularly SDG 7, is contingent on states' willingness to modify their domestic regulations and policies, or to implement new ones. According to the United Nations Development Programme (UNDP), 'the sustainable energy transition is a transformative shift in how energy is produced, distributed and consumed, aiming to move away from fossil fuels towards a system centred on renewable energy sources such as solar, wind, hydropower and geothermal'.[40] UNDP argues that it is imperative to implement this change to address the climate crisis, as fossil fuels continue to supply 80 per cent of the world's energy, resulting in the release of substantial quantities of planet-warming gases, including carbon dioxide and methane.[41]

Furthermore, Huhta argues for the principle of legal certainty in the context of the energy transition to anchor evolving, turbulent legal developments and

[39] Imad Antoine Ibrahim, 'Energy transition and Sustainable Development Goal 7: A legal analysis in the context of the Arab world', (2023) 16 (2) JWELB 77, 90 <https://doi.org/10.1093/jwelb/jwad008> accessed 15 June 2025.
[40] United Nations Development Programme, 'Global Climate Promise: What is the sustainable energy transition and why is it key to tackling climate change? (*UNDP Global Climate Promise*, 3 February 2025) <https://climatepromise.undp.org/news-and-stories/what-sustainable-energy-transition-and-why-it-key-tackling-climate-change> accessed 15 June 2025.
[41] ibid.

reconcile the conflicting laws required by the transition.[42] Huhta further contends that, legally, the energy transition necessitates the ongoing development and modification of legal frameworks to accommodate the changing realities of the energy sector.[43] In this respect, Kanie and others investigate the impact of governance frameworks, including those associated with energy policy, on achieving the SDGs.[44] Kanie and others find that the key to success will be 'action coherence', whereby actions initiated to fulfil individual SDGs are coherent across efforts to achieve the complete set of SDGs over the long run, including target setting for renewable energy.[45] On their part, Omri and Jabeur argue that the vital role of law and regulation lies in facilitating the transition from fossil fuels to cleaner energy sources, with a particular emphasis on addressing climate change.[46] According to Omri and Jabeur, 'enacting clean energy policies, along with environmental laws and regulations, while supported by a well-developed financial sector, accelerates the transition to renewable energy'.[47] Essentially, Huhta, Kaine and others, and Omri and Jabeur's findings emphasise the need for a constructive, evolving, and coherent legal framework to achieve the SDGs because addressing the SDGs also implies accelerating the transition to renewables.

1.2.2.1 Overview of the Concept of Sustainable Development

The environment remains the victim of human damage driven by the limitless pursuit of socio-economic activities, including a growing population, industrialisation, the exploitation of natural resources, and technological advancements. Therefore, action must be taken, especially regarding human actions that harm the environment, as they can affect the use of the environment not only in the present but also in the future. According to Bacchus and Bacchus,

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[42] Kaisa Huhta, 'Anchoring the energy transition with legal certainty in EU law' (2020) 27(4) MJECL 425, 444 <https://doi.org/10.1177/1023263X20932056> accessed 15 June 2025.
[43] ibid.
[44] Norichika Kanie, David Griggs, Oran Young, Steve Waddell, Paul Shrivastava, Peter M Haas, Wendy Broadgate, Owen Gafney and Csaba Kőrös, 'Rules to goals: emergence of new governance strategies for sustainable development' (2019) 14 SS 1745, 1749 <https://doi.org/10.1007/s11625-019-00729-1> accessed 15 June 2025.
[45] ibid.
[46] Anis Omri and Sami Ben Jabeur, 'Climate policies and legislation for renewable energy transition: The roles of financial sector and political institutions' (2024) 203 TFSC <https://doi.org/10.1016/j.techfore.2024.123347.> accessed 15 June 2025.
[47] ibid.

efforts to mitigate environmental impact have involved global, regional, and national advocacy, as well as legal intervention and adjudication over the years.[48] Consequently, international agreements and UN conferences have urged nations to enact legislation and policies to mitigate environmental damage, reduce dependence on fossil fuels, and advance alternative energy sources, thereby facilitating an energy transition.[49] Some of the most critical initiatives include setting a long-term temperature goal, achieving global peaking and 'climate neutrality', and pursuing mitigation and adaptation.[50] This would lead to sustainable development, with countries enhancing their energy access, security, supply, and affordability. The notion of sustainable development and its relevance to the background and global support for energy-sector cooperation are examined below.

The concept of sustainable development first emerged in the international arena following the United Nations' 1983 initiative to establish the World Commission on Environment and Development, which aimed to examine and report on strategies for addressing the world's environmental, poverty, and energy crises.[51] The Commission, headed by the then Prime Minister of Norway, Gro Harlem Brundtland, was renowned for coining and defining the term 'Sustainable Development' in its 1987 Report.[52] Most importantly, and why the Report is relevant to the current research, is that the Commission was led by the threat of war, poverty, and the degradation of the Global South at the time, including the pollution and resource depletion of the industrialised world, which continue to plague our world today. Accordingly, the Commission, in its report, argued that humanity could ensure sustainable development, which means 'a development

[48] Bacchus and Bacchus (n 2).
[49] United Nations, 'United Nations Framework Convention on Climate Change' (United Nations 1992) <https://unfccc.int/resource/docs/convkp/conveng.pdf> accessed 16 June 2025.
[50] United Nations Framework Convention on Climate Change, 'Key aspects of the Paris Agreement' (UNFCCC, 2025) <https://unfccc.int/most-requested/key-aspects-of-the-paris-agreement> accessed 16 June 2025.
[51] World Commission on the Environment and Development, *Our Common Future – Brundtland Report* (Oxford University Press 1987); United Nations Digital Library System (UNDLS), 'Report of the World Commission on Environment and Development: Note by the Secretary General', Chapter 2, <https://digitallibrary.un.org/record/139811?ln=en&v=pdf> 16 January 2026.
[52] ibid.

that meets the needs of the present without compromising the ability of the future generation to meet their own needs'.[53]

Furthermore, the Commission argues that a world where poverty is prevalent is constantly exposed to environmental and other catastrophes, thereby calling on developed countries to adopt an environmentally conscious approach to their energy use.[54] Although the global issues that prompted the establishment of the Commission and the issues identified by the Report continue to persist. For example, the Report popularised the notion of sustainable development and the need for sustainable global development in international environmental law, as well as in other international, regional, and national discourses concerning the environment, poverty, economy, and energy.[55] The need to review the Brundtland Report in the present research cannot be overstated, as the report's aim, notion, and feedback align with this research. For instance, the Report noted the impact of continued poverty worldwide and how poverty affects access to energy.[56] This is important because most ECOWAS member states are reportedly among the world's relatively poorer countries, with limited or no access to clean, affordable, secure, and sustainable energy sources.[57] For example, Liberia (an ECOWAS member) reportedly has only 2 per cent of its population with access to a regular electricity supply.[58] In contrast, Cape Verde, an ECOWAS member, has almost the entire population with regular access to electricity.[59]

Moreover, the Brundtland Report has led to the development of both binding and non-binding international agreements to protect the environment. Such agreements include the 1992 United Nations Conference on the Environment and

[53] Brundtland Report (n 51).
[54] ibid.
[55] Philippe Sands, Jacqueline Peel, Adriana Fabra and Ruth Mackenzie, *Principles of International Environmental law* (3rd edn, Cambridge University Press 2012) ch 1.
[56] Brundtland Report (n 51).
[57] United Nations Conference on Trade and Development, 'UN list of least developed countries' (UNCTAD) <https://unctad.org/topic/least-developed-countries/list> assessed 18 January 2024.
[58] Sri Mulyani Indrawati, 'What you need to know of about energy poverty' (*World Bank,* 28 July 2015) < https://blogs.worldbank.org/voices/what-you-need-know-about-energy-and-poverty > assessed 18 January 2025.
[59] International Renewable Energy Agency, 'Energy profile: Cabo Verde' <https://www.irena.org/-/media/Files/IRENA/Agency/Statistics/Statistical_Profiles/Africa/Cabo-Verde_Africa_RE_SP.pdf?rev=dddc2dd4003d4e14a8b464177850e049 > assessed 18 January 2025.

Development (UNCED), also known as Earth Summit,[60] with its Agenda 21 calling for international, regional, and national governments and organisations to take action against the impact of humans on the environment;[61] the 1992 Kyoto Protocol known as the United Nations Convention on Climate Change which like the Brundtland Report calls out developed countries to be conscious of their use of energy with the Kyoto Protocol further calling on industrialised countries to cut down greenhouse gas emissions (GHG) as well as, to contribute and finance renewable energy projects of developing and vulnerable countries affected by climate change;[62] the Copenhagen Accord of 2009;[63] the Doha Amendment of 2012 (an amendment to the Kyoto Protocol),[64] and the 2015 Paris Agreement.[65]

The Paris Agreement is a legally binding international agreement with the primary aim of keeping global warming well below 2°C above pre-industrial levels, thereby calling on countries to limit global warming to 1.5°C by the end of the century.[66] Essentially, Article 6(1) of the Agreement encourages parties to collaborate in implementing their Nationally Determined Contributions[67] to raise ambition in their mitigation and adaptation actions, thereby promoting sustainable development and environmental strategies to curb climate change. These international agreements have led to regional and national legislations emphasising the need to protect the environment, thereby encouraging reduced

[60] United Nations, 'Sustainable Development Goals: United Nations Conference on the Environment and Development' 1992 Earth Summit <https://sustainabledevelopment.un.org/milestones/unced > assessed 18 January 2025.
[61] United Nations, 'Sustainable Development Goals: Agenda 21' UNCED 1992 <https://sustainabledevelopment.un.org/index.php?page=view&nr=23&type=400&menu=35> assessed 18 January 2025.
[62] United Nations, 'Climate Change: Kyoto Protocol – Targets for the First Commitments Period' (1997) < https://unfccc.int/process-and-meetings/the-kyoto-protocol/what-is-the-kyoto-protocol/kyoto-protocol-targets-for-the-first-commitment-period > assessed 18 January 2024.
[63] United Nations, 'Climate Change: Information Provided by the Parties to the Convention relating to the Copenhagen Accord (2009) <https://unfccc.int/process/conferences/pastconferences/copenhagen-climate-change-conference-december-2009/statements-and-resources/information-provided-by-parties-to-the-convention-relating-to-the-copenhagen-accord> assessed 18 January 2025.
[64] United Nations, 'Climate Change: The Doha Amendment: Background' (2012) <https://unfccc.int/process/the-kyoto-protocol/the-doha-amendment > assessed 18 January 2025.
[65] United Nations Framework Convention on Climate Change (Paris Agreement) 2015.
[66] United Nations, 'Climate Action: the Paris Agreement, what is the Paris Agreement?' < https://unfccc.int/process-and-meetings/the-paris-agreement > assessed 18 January 2025.
[67] Paris Agreement (n 65) art 4(2).

reliance on fossil fuels, promoting the development of alternative energy sources, and driving the push for energy transition.

In summary, the Brundtland Report has paved the way for international, regional, and national legislation, such as the 2015 Paris Agreement, which continues to call on countries to act on the mitigation and adaptation of climate change effects,[68] and, by implication, the protection of the environment by advocating for the development of renewable energy, energy transition, the fight against climate change and support for green projects. In November 2021, in Glasgow, UK, world leaders gathered to reaffirm the global commitment to the Paris Agreement. Banners reading, 'Our Planet, Our Future' and 'There is No Planet B', reminded the world of the need to keep global temperatures below 2 degrees Celsius.[69] Again, the former President of Nigeria, Muhammad Buhari, who was present at the Glasgow Conference, signed the Climate Change Bill into law in Nigeria[70] just after the Conference, perhaps demonstrating the Conference's impact. Although Nigeria's Climate Law is national, as a leading country in ECOWAS, it sets a pacesetting example for the sub-region. Consequently, ECOWAS could adopt relevant national renewable energy legal frameworks and measures to develop the regional renewable energy sector.

1.2.3 Renewable Energy Development and Energy Transition

The International Energy Agency (IEA) defines renewable energy as including wind, solar, wave, tidal, and hydropower.[71] Furthermore, the IEA emphasises that renewable energy sources facilitate nearly complete decarbonisation of electricity generation and that utilising renewables in the power, heat, and transport sectors would be essential for the world to limit the rise in average

[68] ibid art 6.

[69] Sarah Jackson, Imogen Outlaw, Lukas Kalen and Ines Paiva, 'Shaping Strong EU Partnerships, Guiding Principles and Key Considerations' (*New Climate Institute*, December 2024) 15 <https://newclimate.org/sites/default/files/2024-12/Shaping%20Strong%20EU%20Partnerships_dec2024.pdf> accessed 8 August 2025.

[70] Vivian Chime, 'Buhari signs Climate Change Bill into Law' (*The Cable*, 18 November 2021) <https://www.thecable.ng/breaking-buhari-signs-climate-change-bill-into-law/> accessed 13 January 2025.

[71] International Energy Agency, 'Renewables' < https://www.iea.org/energy-system/renewables#tracking > accessed 12 February 2025.

temperatures to below 1.5°C.[72] The Intergovernmental Panel on Climate Change (IPCC), in its 2018 Special Report, noted the impact of global warming and emphasised the need to keep global temperature 1.5°C above pre-industrial levels.[73] This later informed the decision of the Conference of the Parties to the United Nations Framework Convention on Climate Change, as reflected in the 2015 Paris Agreement.[74] Accordingly, the gradual shift from fossil fuels to renewable energy sources underpins the concept of energy transition.

Kowalska-Pyzalska defines the energy transition as the global shift in investments and efforts within the energy sector from fossil-based energy systems to renewable energy sources.[75] For many years, the world has primarily relied on burning fossil fuels—oil, gas, and coal—for its energy needs. However, these energy sources are the primary contributors to climate change, as they release greenhouse gases that accumulate in the atmosphere, trapping heat from the sun.[76] Gandomi and others emphasise the need to transition to cleaner, more sustainable energy sources to address environmental concerns, ensure long-term sustainability, and meet growing global energy demands.[77] Therefore, there is an urgent need to transition from fossil fuels to cleaner, more sustainable renewable energy sources. This research also acknowledges the inherent tension between the conceptualisation of energy transition laws and policies and the challenges of their concrete, local implementation, but contends that such a legal framework is necessary for the energy transition.

Specifically, the 2015 Paris Agreement called on world leaders to limit global temperature rise to well below 2°C above pre-industrial levels, as this can

[72] ibid.
[73] ibid.
[74] Intergovernmental Panel on Climate Change, 'Special Report: Global Warming 1.5ºC: Special Report for Policymakers' (2018) ch 1 < https://www.ipcc.ch/sr15/chapter/spm/ > accessed 1 March 2025.
[75] Anna Kowalska-Pyzalska, *Diffusion of Innovative Energy Services: Consumers Acceptable and Willingness to Pay* (Academic Press 2024) ch 1.
[76] Katherin Quinn and Anum Yousaf Sheikh, 'What is the Transition?' (*CISL*, 24 September 2024) < https://www.cisl.cam.ac.uk/news/blog/what-energy-transition > accessed 12 February 2025.
[77] Saeid Gandomi, Maryam Barzegar, Sara Zolghadri and Mohammad Reza Rahimpour, 'The Future of Fossil Fuels Supply and Impacts on Sustainability' (2024) 1 ERESE 121, 130 <https://www.sciencedirect.com/science/article/abs/pii/B978032393940900270X?via%3Dihub > accessed 18 June 2025.

considerably reduce the risks and impacts of climate change.[78] Consequently, in response to the global imperative to address climate change issues, there has been considerable international support for the development of renewable energy and the transition to sustainable energy sources. Therefore, countries are encouraged to introduce incentives and support schemes for renewable energy technologies and innovations. For instance, the EU countries, including France, Germany, and Spain, have adopted incentives.[79] Essentially, renewable energy support schemes are implemented through laws and policy instruments to promote the deployment of renewable energy sources.[80] For instance, to accelerate its clean energy plan,[81] the EU revised its 2009 and 2018 Directives[82] in 2023, emphasising the need for member states to cooperate in promoting renewable energy use through support schemes and joint projects.[83]

Nevertheless, this researcher recognises the challenges nations may face in their collaborative efforts, attributable to divergent national interests, limited renewable energy resources, domestic legislation and policies, and funding constraints. For instance, as the EU contends with policy harmonisation and system integration, ECOWAS confronts more fundamental issues, including financing and institutional capacity. In addition, project implementation is affected by public opposition and land-use disputes, exemplified by local resistance to wind farms or large-scale solar installations due to environmental and optical concerns – 'Not Behind My Backyard' (NBMBY).[84] In its case, as this

[78] Paris Agreement (n 65) art 2(a).
[79] New Climate Institute, 'Shaping Strong EU Partnerships, Guiding Principles and Key Considerations' <https://newclimate.org/sites/default/files/2024-12/Shaping%20Strong%20EU%20Partnerships_dec2024.pdf> accessed 27 June 2025.
[80] Mariia Kozlova, Kaisa Huhta and Alena Lohrmann, 'The interface between support schemes for renewable energy security supply: Reviewing the capacity mechanisms and support schemes for renewable energy in Europe' (2023) 181 EP https://www.sciencedirect.com/science/article/pii/S0301421523002926 <https://www.sciencedirect.com/science/article/pii/S0301421523002926 > accessed 18 March 2025.
[81]European Commission, 'REPowerEU Plan' (SWD (2022) 230 Final) <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2022%3A230%3AFIN&qid=1653033742483 > accessed 18 March 2025.
[82] European Parliament and Council Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources.
[83] European Parliament and Council Directive (EU) 2023/2413 on the promotion of the use of energy from renewable sources.
[84] Christopher R Jones and J Richard Eiser, 'Understanding "local" opposition to wind development in the UK' (2010) 38 (6) EP 3106, 3117

research demonstrates later, ECOWAS is challenged by weak institutional and regulatory frameworks, as renewable energy and the energy transition is not supported by many member states due to the absence of strong policies, enforcement mechanisms, and institutional capacity; limited public and private funding and perceived investment risk; transmission and distribution infrastructure deficiencies hindering the integration and expansion of renewable energy; and shortages in technical capacity. However, both the EU and ECOWAS regional bodies share the common goal of transitioning to more resilient, cleaner energy systems.

Accordingly, this research critically examines the ECOWAS regional organisation and its establishment and management of institutions and programmes through its legal and policy framework, with a focus on facilitating renewable energy and energy transition.[85] Academically, this necessitates a comparative analysis to derive insights from other jurisdictions. The regional body of the European Union has been explicitly chosen in this regard. This is because, apart from the ECOWAS acknowledging that its renewable energy and energy efficiency policies mirror the EU's framework, this research also contends that the EU's framework is robust and evolving, as discussed in detail in Chapter Five. Specifically, the justification for selecting the EU for this research encompasses an analysis of how the EU's established legal frameworks address objectives related to renewable energy and energy transition. For example, the EU continues to update and reformulate its renewable energy Regulations and Directives in response to global energy and environmental trends. The EU aims to provide energy access to all its citizens while protecting the environment from climate change, as demonstrated in Chapter Five. In contrast, ECOWAS, more than two decades after its Energy protocol, has yet to update or introduce new legislation to regulate its emerging renewable energy sector in line with current trends. Therefore, this research draws essential lessons from the development of institutional and legal capacities

<https://www.sciencedirect.com/science/article/pii/S0301421510000790 > accessed 19 September 2025.

[85]Eric Tevoedjre, 'What ECOWAS can learn from the EU integration process' (*Development and Cooperation*, 23 October 2024) <https://www.dandc.eu/en/article/economic-community-west-african-states-crisis-it-should-aim-foster-economic-integration-its> accessed 18 June 2025.

through binding directives, market-based mechanisms, and cross-border energy cooperation in the EU context, which ECOWAS could apply.[86]

Reflecting on energy transition, the political actions to address climate change could result in economic displacement, unemployment, embodied externalities, and human rights violations. For instance, Carley and others argue that the path towards decarbonisation may increase vulnerabilities, despite its potential benefits of reducing greenhouse gas emissions and promoting economic and social growth, because some individuals and communities are more susceptible to adverse impacts than others.[87] Therefore, Carley and others contend that, although the energy transition is essential, policies should adopt a just approach in light of the adverse effects caused by policies that facilitate this transition.[88] This is due to potential price increases, job displacements, and uneven resource distribution across the population, with some individuals and communities being more vulnerable to adverse effects than others. Furthermore, Okpanachi and others suggest that knowledge and understanding of the dynamics of energy transitions have mostly come from the Global North, particularly the EU, which has led in developing technologies and policies to source energy from renewables and address climate change issues.[89] However, Okpanachi and others challenged the benefits of energy transition by emphasising energy sovereignty and energy justice.[90] This issue stems from the negative effects of decarbonisation and the possible rise in vulnerabilities, notably including the impact of energy transition policies.

Indeed, many scholars and activists have observed that not all transitions yield equitable results; instead, they may create new forms of inequality or perpetuate

[86] M Moustapha Maman Ali and Qian Yu, 'Assessment of the impact of renewable energy policy on sustainable energy for all in West Africa' (2021) 180 RE 544, 551 <https://doi.org/10.1016/j.renene.2021.08.084.> accessed 18 June 2025.
[87] Sanya Carley, Tom P Evans, Michelle Graff and David M Konisky, 'A framework for evaluating geographic disparities in energy transition vulnerability' (2018) 3 NE 621, 627 <https://doi.org/10.1038/s41560-018-0142-z> accessed 18 June 2025.
[88] ibid.
[89] Eyene Okpanachi, Terhemba Ambe-Uva and Anas Fassih, 'Energy regime reconfiguration and just transitions in the Global South: Lessons for West Africa from Morocco's comparative experience' (2022) 139
Futures <https://doi.org/10.1016/j.futures.2022.102934.> accessed 19 June 2025.
[90] ibid.

existing disparities and vulnerabilities, not only within energy systems but also throughout society as a whole. For instance, according to Broto and others, it is essential to develop an energy justice theory that can effectively address the complex requirements of a global energy transition in impoverished countries of the Global South.[91] Critically, Broto and others argue that dominant energy justice theories often rely on Universalist ideas rooted in Western philosophy, which might not be entirely suitable for policy use in postcolonial contexts.[92]

In their research, Sovacool and others investigate the justice and equity implications of four low-carbon transitions, revealing the 'lived experiences' of decarbonization as manifested across Africa and Europe.[93] The research highlights that sustainability transitions and decarbonisation pathways must become more egalitarian, fair, and just.[94] This research acknowledges the position of these scholars on the concept of just transition. However, evaluating the conditions that can enable a just transaction towards a more equitable and climate-friendly energy regime is beyond the scope of this research. Nonetheless, the work of these scholars underlines the centrality of governance processes in the global South to the broader goal of advancing a just transition; hence, my analysis of the dynamics of legal and institutional reform within ECOWAS can enrich ongoing debates about the form that a just transition should take.

1.2.4 Regional Integration

Global challenges – including environmental catastrophes, concerns over energy security, supply, and affordability for an expanding population, technological advancements, and economic and social growth - constitute uncertainties. These challenges are beyond the scope of a single government or organisation. Therefore, addressing these challenges necessitates a collective approach that encourages nations to enter both binding and non-binding agreements, enabling

[91] Vanesa Castán Broto, Idalina Baptista, Joshua Kirshner, Shaun Smith and Susana Neves Alves, 'Energy justice and sustainability transitions in Mozambique' (2018) 228 AE <https://doi.org/10.1016/j.apenergy.2018.06.057.> accessed 19 June 2025.
[92] ibid.
[93] Benjamin K Sovacool, Bruno Turnheim, Andrew Hook, Andrea Brock and Mari Martiskainen, 'Dispossessed by decarbonisation: Reducing vulnerability, injustice, and inequality in the lived experience of low-carbon pathways, World Development' (2021)137 <https://doi.org/10.1016/j.worlddev.2020.105116.> accessed 19 June 2025.
[94] ibid.

unified action. In international law, the term 'non-binding agreements' denotes agreements that embody political or moral commitments but are not designed to establish legal rights and obligations.[95]

Non-binding agreements encompass a wide array of instruments, ranging from declarations that document policy statements to formal agreements that entail specific commitments.[96] These agreements, also known as 'gentlemen's agreements,' refer to non-legally enforceable agreements in municipal legislation that rely on the good faith and honour of the parties involved.[97] The term 'non-binding agreement' is the 'antithesis of the term treaty, which may be defined as a legally binding international agreement.'[98] In other words, formal, legally binding written agreements between sovereign states or international organisations that are governed by international law are commonly referred to as binding international agreements or treaties. Therefore, the participating parties are legally obligated to adhere to the terms of these agreements under international law.[99]

The distinction between these agreements, whether binding or non-binding, is crucial for accountability, implementation, and enforcement, especially concerning key issues like energy access, security, affordability, and environmental sustainability. The agreements between countries can take various forms, including regional integration, intergovernmental arrangements, confederation, and federation. However, this research focuses on regional integration to make a case for renewable energy development and the transition to a low-carbon energy system. Nonetheless, the aims of regional integration schemes might differ, such as creating a customs union, a political union, or an economic union, and the objective may shift from one sector to another or to

[95] Philippe Gautier, 'Non-Binding Agreements' (2022) OPIL <https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1444> accessed 19 June 2025.
[96] ibid.
[97] ibid.
[98] ibid.
[99] United Nations 'Treaty Collections, Definition of key terms used in the UN Treaty Collection' (*UNTC*, June 2025) <https://treaties.un.org/Pages/overview.aspx?path=overview/definition/page1_en.xml> accessed 22 June 2025.

other activities. Balassa, in examining the theory of economic integration, argues that political motives may prompt the first step towards economic integration, while economic integration also influences the political sphere.[100] Furthermore, Balassa contends that if the initial objective of the integration is economic, the need for political unity can emerge later. This view resonates with Haas' concept of spillover, in which an integration in one area may also encompass other common issues,[101] as discussed in detail in Chapter Three of this research.

Haas defines regional integration as 'the process whereby political actors in several distinct national settings are persuaded to shift their loyalties, expectations, and political activities to a new centre whose institutions possess or demand jurisdiction over the pre-existing national states'.[102] Following Haas' concept of regional integration and its definition, which emphasises the necessity for regional integration frameworks to establish supranational institutions and to cede particular national sovereignties to these entities, this research contends that one of the challenges faced by ECOWAS is the underdevelopment of a well-defined and structured regional integration process rooted in established principles. Furthermore, aligning Haas' theoretical framework with the specific context of ECOWAS could be instrumental in advancing renewable energy initiatives and facilitating the energy transition.

In other words, with the appropriate regional arrangements, regional integration may foster the development of renewable energy and facilitate energy transition for sustainable development within the ECOWAS sub-region. This is necessary because of the variety of renewable energy sources and national measures that could be exclusively based on indigenous renewable energy resources. Consequently, there is a necessity for a collaborative effort to explore all potential renewable energy sources, accompanied by suitable support schemes. For example, Crossley, in assessing various legislative definitions of what constitutes renewable energy, found that the definitions adopted by 113 countries

[100] Bala Balassa, *The Theory of Economic Integration* (1st edn, Routledge Revivals 2011) ch 1.
[101] Lucy Hatton, 'Theories of European Integration' (*CIVITAS*, July 2011) <https://www.civitas.org.uk/content/files/OS.16-Theories.pdf> accessed 25 July 2025.
[102] Ernst B Haas, *The united of Europe: Political, Social, and Economic Forces 1950-1975* (Sandford University Press 1958) ch 1.

tend to reflect their indigenous sources of renewable energy.[103] This suggests that if Nigeria has potential for solar energy, its renewable energy laws and policies, including support schemes, may only apply to solar energy, leaving no prospects for other renewable energy sources. Accordingly, it may be difficult for Nigeria to consider supporting research and development in additional potential renewable energy sources. Therefore, a regional approach and collaborative effort are crucial for utilising and developing all potential sources of renewable energy, as well as for the energy transition.

This research argues that if efforts and resources are pulled together, and in line with Haas notion of regional integration, it may be contended that where national governments successfully give up loyalties to a centre, the centre can employ the necessary expertise, pull resources together, which is beyond national measures to consider the development of all potential sources of renewable energy in all the contracting states. For example, the mission of the World Bank and the African Development Bank to provide access to electricity for 300 million people in Sub-Saharan Africa,[104] which includes ECOWAS countries, can be carried out fairly and with less domestic political interference, not least the equitable distribution of the funds and supports that the Paris Agreement urged developed countries to contribute to developing nations for their mitigation and adaptation efforts.[105] Again, in February 2022, when Russia invaded Ukraine, the EU, not its individual member states, condemned Russia's action, consequently imposing import and export sanctions on Russia, irrespective of the fact that Russia was a major supplier of gas to most of the EU member states.[106] The EU's action is necessary because the EU institutions' response indicates the member state's commitment to the integration arrangement, further confirming Haas' notion that

[103] Penelope Crossley, 'What is the "renewable energy"? – conceptualising the legislative definition of renewable energy' (2022) 10 (3/4) RELPR 35, 56 < https://www.elgaronline.com/view/journals/relp/10-3-4/relp.2022.03-04.06.xml#d34675937e1168 > accessed 4 February 2025.

[104] World Bank Group, 'Mission 300 is powering Africa: connecting 300 million people to electricity' <https://www.worldbank.org/en/programs/energizing-africa> accessed 22 September 2025.

[105] Paris Agreement (n 65) arts 9, 10, 11.

[106] Lasse Boehm and Ales Wilcox, 'EU energy security and the war in Ukraine: from sprint to marathon' (2023) EPRS< https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/739362/EPRS_BRI(2023)739362_EN.pdf > accessed 10 February 2025.

national governments shift their loyalties to a central authority. Additionally, the EU, rather than its member states, has taken steps to reduce the EU's reliance on Russian fossil fuels, with current data showing a decline in Russian oil, gas, and coal supplies to the EU.[107]

However, it is worth noting that one of the steps taken by the EU to reduce its reliance on Russian fossil fuels and enhance its energy security was to boost renewable energy development and use, which, according to the International Energy Agency, accounted for a 10 per cent decline in gas demand.[108] The measures taken by the EU institutions to ensure their energy security are what this research terms a collective, practical approach towards addressing a common issue. Consequently, this is one of the strengths of regional integration, which establishes a central authority to manage the affairs of the integration scheme. This is crucial for renewable energy development and transition, given the need for advanced technology, finance, expertise, accountability, inclusivity, and transparency to achieve energy security, supply, and affordability, which exceed the economic, social, and political capacity of some national governments. Therefore, this research argues that adopting an ill-structured, unaligned regional integration constitutes a challenge to renewable energy development and the energy transition in the ECOWAS sub-region. A detailed investigation of ECOWAS integration is presented in Chapter Three, which includes the concept of regional integration, its origins, definitions, and the idea of situating ECOWAS integration in its context.

There is scholarship that points to the benefits of regional legal arrangements, such as the EU vis-à-vis ECOWAS, including policy harmonisation and legal certainty; market integration and cross-border infrastructure; shared energy security and climate resilience; and technological transfer and capacity building. These benefits are discussed in more detail in Chapter Five. Additionally, the

[107] Statistics Explained, 'EU trade with Russia - latest developments' (*Eurostat*, November 2024) < https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Russia-EU_-_international_trade_of_main_product_groups&oldid=558089#Key_product_groups_imported_by_the_EU_from_Russia > accessed 10 February 2025.

[108] International Energy Agency, 'Analysing the impacts of Russia's invasion of Ukraine on energy markets and energy security: Russia's war on Ukraine' <https://www.iea.org/topics/russias-war-on-ukraine > accessed 10 February 2025.

World Bank notes that regional integration helps countries overcome challenges that hinder the free movement of people, capital, goods, and services, leading to a lack of economic and social growth, particularly in developing countries.[109] This also demonstrates that regional integration could be leveraged to achieve a common good, such as sustainable development. For example, Ulla and others found that a multidimensional regional integration scheme can foster a renewable energy transition and sustainable development.[110]

Ulla and others define 'Multi-Dimensional Regional Integration' as a multifaceted concept in which independent states agree with neighbouring states to upgrade cooperation through institutions.[111] Sustainable development requires nations to cooperate and collectively protect the environment from harm while promoting economic and social growth. This is why it is argued that one cannot discuss a sustainable future without first acknowledging the continuous efforts by the United Nations and its members, through binding and non-binding legislation (as earlier discussed in section 1.2.3), to address the global environmental catastrophes caused by human activities by supporting renewable energy development and energy transition for sustainable development.

1.3 Research Question

There are two main questions addressed in this research: First, whether the ECOWAS integration has contributed to promoting renewable energy development through its regional legal and institutional frameworks; and second, how ECOWAS' regional integration strategy can be further utilised to facilitate the energy transition for sustainable development.

1.4 Research Aim

This research aims to critically examine the ECOWAS renewable energy legal framework to determine if and how regional integration and cooperation can

[109] World Bank, 'Regional Integration' <https://www.worldbank.org/en/topic/regional-integration/overview#1> accessed 13 January 2025.
[110] Atta Ulla, Haitham Nobanee, Saif Ulla and Huma Iftikhar, 'Renewable Energy Transition and Regional Integration: Energizing the Pathway to for Sustainable Development' (2024) 21 IJEST 5285-5310 < https://www.sciencedirect.com/science/article/abs/pii/S0301421524002908 > accessed 4 February 2025.
[111] ibid.

promote renewable energy development and support the energy transition in the ECOWAS sub-region, drawing on relevant lessons learned from the EU context.

1.5 Research Objectives

- To critically evaluate the global renewable energy sector, thereby establishing connections between sustainable development, renewable energy development, the energy transition legal framework, regional integration, and the ECOWAS renewable energy legal framework.

- To review the integration of ECOWAS, including its background, legal framework, and governance structure.

- To define and evaluate global concepts of regional integration and their capacity to support renewable energy, sustainable development, and energy transition.

- To critically assess the ECOWAS' laws and policies on renewable energy, thereby determining if and how they have advanced the transition from fossil fuels to cleaner and sustainable energy resources, and to review the ECOWAS renewable energy laws, policies, institutions, and programmes, as well as those of its member states and their impact on the existing legal framework of the member states.

  To critically analyse the EU and ECOWAS' Renewable Energy Development and Energy Transition Legal Frameworks and determine the impact of their regional arrangements, justifying the need for strengthening ECOWAS laws and policies to advance renewable energy and transition from fossil fuels to cleaner, sustainable energy resources.

1.6 Contributions to Knowledge

This thesis makes a significant contribution to the field of regional integration, particularly in the context of legal frameworks, by providing in-depth insights and enriching the academic literature on the binding aspects of the ECOWAS integration legal system. For instance, the evaluation of the concept of regional integration and the critical analysis of the legal frameworks relating to renewable

energy and energy transition within the EU and ECOWAS demonstrate that, although both are regional integration schemes, their institutional competencies differ, as the EU framework shows more democratic principles than ECOWAS. This disparity significantly affects the effectiveness of the legal frameworks governing renewable energy and the energy transition in both the EU and ECOWAS. Additionally, contrary to the view that ECOWAS is a form of regional integration similar to the EU, this thesis demonstrates that ECOWAS aligns more closely with intergovernmental arrangements rather than a regional integration scheme like the EU.

Furthermore, this research highlights the challenges of energy poverty and disparities in renewable energy development and underscores the need for the sub-region's legal and institutional framework to adequately address these concerns. Nevertheless, this thesis provides a critical analysis of how regional integration can advance renewable energy and facilitate the energy transition. It also assesses how current ECOWAS renewable energy laws and policies can further promote the utilisation of renewable energy resources and support the energy transition, particularly in the context of the global shift from fossil fuels to cleaner energy solutions that foster sustainable development. Specifically, this thesis contributes to the body of knowledge in the following manner:

- The thesis demonstrates that ECOWAS aligns more closely with intergovernmental arrangements rather than a regional integration scheme like the EU.

- The thesis provides a critical analysis of how regional integration can advance renewable energy and facilitate the energy transition.

- It also assesses how current ECOWAS renewable energy laws and policies can further promote the utilisation of renewable energy resources to the energy transition, particularly in the context of the global shift from fossil fuels to cleaner energy solutions for sustainable development.

- The thesis critically evaluates whether the existing ECOWAS laws, policies, and institutional frameworks align with contemporary global guidelines to

effectively promote renewable energy development and energy transition for sustainable development.

Ultimately, this research serves as a valuable resource for policymakers who aim to refine and adapt strategies that ECOWAS institutions may implement to advance energy transition efforts in pursuit of sustainable development within the sub-region, because this research draws insights from the EU's legal frameworks concerning renewable energy and energy transition to improve ECOWAS' renewable energy legislation and policies, thereby benefiting its member states.

1.7 Impact of the Research

First, this thesis analyses the legal architecture of the energy transition in ECOWAS to inform a future legal and policy framework that outlines lessons for ECOWAS. This framework can be communicated to ECOWAS member states, national and regional renewable energy organisations, and national energy policymakers, such as the Nigerian Energy Commission, with the primary aim of promoting regional integration and cooperation in the energy sector to support the energy transition in the West African sub-region.

Secondly, this research focuses on ECOWAS legislators and their member states, as well as policymakers and regulatory authorities responsible for renewable energy. Its goal is to equip them to implement laws and policies that facilitate energy transition and promote sustainable development in the region. For instance, the IRENA highlighted West Africa's renewable energy potential in its report; however, many citizens still lack access to modern energy sources. Consequently, this project may inform a robust renewable energy legal framework that demonstrates a pathway for sustainable development and green growth in West Africa, thereby promoting closer regional integration in the energy sector. With a heightened awareness and understanding of climate change and the shift from fossil fuels to renewable energy sources, there is a resultant impact on mitigating environmental challenges. Ultimately, these investments have a significant effect on society and its citizens through job creation, technological advancements, and innovations within the sub-region.

1.8 Research limitations

Fundamentally, this research focused on the legal and policy frameworks for renewable energy development and energy transition in the ECOWAS region and the EU, with a focus on their governance structures and institutional competencies. Additionally, although there are linkages between the just transition and the energy transition, this research is limited to issues related to the energy transition, specifically the transition from fossil fuels to renewable energy sources. Therefore, this research does not address the problems or debates surrounding the concept of a just transition.

A significant constraint throughout this research was the collection of ECOWAS data via the internet and official websites, which were often not updated when available. For example, links that were previously used sometimes no longer exist, and at other times, the information on the official ECOWAS website was inconsistent with ECOWAS information provided by relevant international organisations such as the World Bank, the African Development Bank, the International Renewable Energy Agency, and the International Energy Agency.

1.9 Literature Review

The section provides a brief overview of key literature examined in this research. It reviews existing literature on regional integration and renewable energy development, which helped identify gaps and omissions in ECOWAS integration, as well as the current renewable energy legal and policy framework of ECOWAS. Additionally, it analyses relevant literature on global renewable energy development and energy transition legal and policy frameworks, with a particular focus on the EU's renewable energy laws and policies, as discussed throughout this research. This section's review focuses on the appropriateness, relevance, and completeness of existing literature regarding the ECOWAS energy legal framework and governance structure for transitioning to renewable energy sources and achieving sustainable development in the sub-region.[112] Consequently, a comprehensive literature review underpins this entire research.

[112] Donileen R Loseke, *Methodological Thinking: Basic Principles of Social Research Design* (2nd Edn, SAGE 2017) ch 4.

The Global South continues to face energy poverty, underscoring the need for greater access to clean, sustainable, and affordable energy. Sy and Mokaddem contend that numerous definitions exist to elucidate the concept of energy poverty, which is attributable to variations among countries in climate and season, household preferences, housing standards, and social and cultural beliefs.[113] However, Sy and Mokaddem's research offers a meta-narrative review of the concept and metrics of energy poverty in developing nations.[114] As a result, it hinders the timely evaluation of energy policy implementation aimed at achieving the Sustainable Development Goal of eliminating energy poverty in developing nations.[115] Gafa and Egbendewe evaluate the levels and determinants of energy poverty in rural West Africa, finding that it is prevalent across the ECOWAS sub-region.[116]

Oke examines the legal and systemic challenges hindering energy security and access in the sub-region and argues that the ECOWAS energy laws and systems are inadequate, affecting energy supply, reliability, and economic growth.[117] As noted in section 1.2 above, West Africa is abundant in renewable energy resources. Therefore, this research contends that the path to renewable energy development and energy transition in the sub-region must be supported by an appropriate legal and policy framework to foster collective efforts towards these goals. It is further argued that this can be achieved through a robust legal framework for regional energy integration and cooperation. For instance, Monyei and others identified challenges and opportunities in the West African sub-region, including low electricity access, sufficiency, and mobility, which are caused by the lack of

[113] Saidou Abdoulaye Sy and Lamia Mokaddem, 'Energy poverty in developing countries: A review of the concept and its measurements' (2022) 89 ERSS <https://doi.org/10.1016/j.erss.2022.102562.> accessed 24 June 2025.
[114] ibid.
[115] ibid.
[116] Dede W Gafa and Aklesso Y G Egbendewe, 'Energy poverty in rural West Africa and its determinants: Evidence from Senegal and Togo' (2021) 156 EP <https://doi.org/10.1016/j.enpol.2021.112476.> accessed 24 June 2025.
[117] Yemi Oke, 'Power Generation and Energy Access in Western Africa: Perspectives from the WAPP Countries' in Lorenzo Colantoni, Giuseppe Montesano and Nicolo Sartori (eds), *Empowering Africa: Access to Power in the African Continent* (Peter Lang, Wabernstrasse, Switzerland 2019) ch 5.

regional cooperation and a relevant legal and policy framework.[118] Furthermore, Monyei and others argue in favour of regional cooperation to promote electricity trading and energy security.[119]

Bruce identified the gaps and criticised the role, character, and capacity of international laws to facilitate initiatives aimed at increasing the global target of renewable energy in the global energy mix by 2030.[120] However, Bruce argued that international renewable energy policy possesses a normative drive to guide energy law, policy, and programmes, but this drive is limited because these are not binding instruments or obligations.[121] Bruce recommends four legal alternatives, including an international energy convention, an energy protocol to the United Nations Framework Convention on Climate Change (UNFCCC), reform of the Energy Charter Treaty, a new protocol to the Energy Charter Treaty, and an international declaration on renewable energy principles.[122] Essentially, this reiterates the need to promote renewable energy and energy transition by ensuring a robust legal framework.[123] Bruce advocates for the adoption of legally binding renewable energy laws and policies to promote and develop renewable energy technologies, thereby supporting the transition, which resonates with this research's aims in terms of the ECOWAS legal framework. As elucidated earlier in Section 1.2.2, renewable energy and energy transition laws and policies can be both binding and non-binding, ensuring that ECOWAS region member states adhere to the established laws and policies. However, a binding legal framework is vital due to the importance of aligning national and regional legal frameworks to promote renewable energy development and energy transition.[124]

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[118] Chukwuka G Monyei, Kingsley O Akpeji, Olamide Oladeji, Olubayo M Babatunde, Okechukwu C Aholu, Damilola Adegoke and Justus O Imafidon, 'Regional cooperation for mitigating energy poverty in Sub-Saharan Africa: A context-based approach through the tripartite lenses of access, sufficiency, and mobility' (2022) 159 RSER <https://doi.org/10.1016/j.rser.2022.112209.> accessed 24 June 2025.

[119] ibid.

[120] Stuart Bruce, 'International Law and Renewable Energy: Facilitating Sustainable Energy for All?' (2013) 14 (1) MJIL <https://pdfs.semanticscholar.org/edde/7b84e6756f0e03c59537b2e5d3116e5321b7.pdf> accessed 13 January 2025.

[121] ibid.

[122] ibid.

[123] ibid.

[124] Paris Agreement (n 65) art 6.

In the ECOWAS legal regime, the introduction of Supplementary Acts under its new regime implies the principle of supranationalism.[125] However, this research finds that before the 1993 treaty, ECOWAS had expressed concerns about the progress of its integration, which served as a reason for revising the ECOWAS treaty.[126] Following this, ECOWAS established a committee to review its integration process and make recommendations.[127] The report by the committee acknowledged weaknesses in the existing ECOWAS institutions, and its overall recommendation was for ECOWAS to move away from its intergovernmental approach to regionalism and adopt a supranational approach.[128] Nevertheless, this research demonstrates that, under the revised ECOWAS treaty, which remains in force, ECOWAS remains an intergovernmental organisation. This still hampers the progress of ECOWAS integration, particularly in terms of its institutional structure and legal framework, which restricts the advancement of renewable energy development and the energy transition within the ECOWAS sub-region.

Lokulo-Sodipe and Osuntogun argue that a supranational organisation like the EU could lead to liberation and hope for the people of West Africa, while contending that ECOWAS functions as an intergovernmental organisation.[129] The authors note that the attempt to amend the 1975 Treaty in 1993 has not yet achieved the objectives established by its founding fathers.[130] The primary aim is to liberate their citizens from issues such as economic mismanagement, misrule, and social evils that afflict the populace.[131] The authors state that the 1993 revised treaty of ECOWAS was an attempt to transform the organisation into a supranational entity, but this initiative ultimately failed.[132] The authors further contend that such a development could have renewed hope among the populace. This viewpoint

[125] ECOWAS, '45th Ordinary Session of the Authority of Heads of State and Government: A New Regime of Community Acts' < https://www.ecowas.int/publication/45th-ordinary-session-of-the-authority-of-heads-of-state-and-government-accra-10-11-july-2014/ > accessed 15 August 2025.
[126] Kofi Oteng Kufour, *The Institutional Transformation of the Economic Community of West African States* (1st edn, Routledge London 2006) ch 2.
[127] ibid.
[128] ibid.
[129] Jadesola O Lokulo-Sodipe and Abiodun J Osuntogun, 'The quest for a supranational entity in West Africa: can the economic community of West African states attain the status?' (2013) PELJ <https://scielo.org.za/scielo.php?script=sci_arttext&pid=S1727-37812013000300010> accessed 13 July 2025.
[130] ibid.
[131] ibid.
[132] ibid.

aligns with the present research, which indicates that, based on the assessment of ECOWAS integration considering the 1993 treaty revision, the organisation remains insufficiently developed to resemble a supranational institution like the EU.

Ali and Yu, in their study, examined the impact of renewable energy policies in West Africa.[133] Based on the findings, the authors lament the lack of implementation of policies that support reform and the long-term production of sustainable energy.[134] The authors' conclusions align with the current research on the lack of implementation of renewable energy policies across ECOWAS member states. Ali and Yu's article was utilised in this research to review the national and regional effects of the ECOWAS renewable energy laws and policies.

Additionally, Antwi-Agyei and others conducted a study on the common priorities of 11 ECOWAS states regarding Nationally Determined Contributions (NDCs) and the SDGs for implementation, adaptation, and mitigation under the Paris Agreement.[135] The authors' findings include energy and agriculture as common priorities among the states for NDCs and SDGs;[136] however, they lament the lack of policy integration and implementation across the states. Following a further review, the position of the authors aligns with the current research, which holds that – through regional integration and cooperation of its energy sector - the ECOWAS could, as a regional body, foster the implementation of the Paris Agreement across its member states, by legislating on policies for the development of renewable energy – SDGs implementation in the sub-region. This may lead to the integrated implementation of national planning priorities for both NDCs and SDGs, not least the realisation of the Paris Agreement among member states.

[133] Ali and Yu (n 86).
[134] ibid.
[135] Philip Antwi-Agyei, Andrew J Dougill, Thomas P Agyekum and Linday C Stringer 'Alignment between nationally determined contribution and sustainable development goals for West Africa' (2018) 18(10) CP 1296, 1312 <https://www.tandfonline.com/doi/full/10.1080/14693062.2018.1431199?needAccess=true> accessed 13 June 2025.
[136] ibid.

Regional efforts should have regional effects, especially in achieving a common necessity, such as access to a clean, sustainable, and affordable electricity supply. However, the ECREEE has been criticised for not directly involving all ECOWAS member states in its goals to provide the ECOWAS citizenry with a clean and affordable electricity supply and in the implementation of its policies.[137] Hancock suggests that further research should be carried out on the ECREEE to ascertain its relevance, activities, role, benefits to ECOWAS member states, and its renewable energy projects in the member states.[138] The current research is, therefore, the realisation of Hancock's suggestion because this research evaluates the ECREEE's extant renewable energy policies and identifies gaps that have hindered the integration of the ECREEE's renewable energy policies, as well as the vast disparity in the energy access rate of the ECOWAS countries, as demonstrated in the findings of the current research.

Building on Hancock's suggestion in the above article, this study finds that the ECREEE, within the ECOWAS legal framework examined here, lacks the legal authority to enact binding laws and policies for ECOWAS and its member states. Consequently, this research reveals that the legal powers of the ECREEE remain uncertain and may be associated with ECOWAS' intergovernmental approach to integration; unlike the supranational approach involving supranational institutions, such as the EU, which is discussed in detail in Chapters Three and Five. For example, more than 10 years after ECREEE was created,[139] the ECOWAS Council adopted a regulation to reaffirm and enhance its legal competence.[140] Thus, this research argues that this explains why the ECREEE's activities are often questioned and inconsistent, with policies that serve as guidelines rather than binding mandates for member states. This may also explain Hancock's scepticism about the ECREEE's purpose and activities, and its significance in advancing renewable energy and the energy transition among ECOWAS members.

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[137] Kathleen J Hancock, 'Energy regionalism and Diffusion in Africa: How political actors created the ECOWAS Centre for Renewable Energy and Energy Efficiency' (2015) 5 ERSS 105, 115 <https://www.sciencedirect.com/science/article/pii/S221462961400156X > accessed 13 January 2025.

[138] ibid.

[139] ibid.

[140] ECOWAS Council Regulation PC/REX-5/06/2020 on the organisation and functioning of the ECREEE.

Igliński and others, as well as Okpanachi and others, argue that the Global North, particularly the EU, has been at the forefront of understanding the dynamics of energy transitions[141] and developing technologies and policies to source energy from renewables and mitigate climate change.[142] It is therefore expedient to study the literature on the EU energy transition to learn lessons for ECOWAS. Solorio and Bocquillon argue that the EU has a renowned global programme supporting renewable energy development, with its energy governance structures promoting renewable energy in areas such as energy transition, electricity, transportation, and climate change.[143] Solorio and Bocquillon also discuss issues concerning the EU's governance mechanisms, especially the differences between centralised and decentralised approaches, and a preference for a flexible framework that allows a range of national support policies.[144] In this regard, the authors assert that EU Directives faced challenges, such as the harmonisation of EU support schemes among some member states, which were resolved through indicative policies.[145] Eventually, the EU renewable energy policy promoted binding, decentralised national policy frameworks, with programmes and instruments supporting the development of renewable energy technologies across its member states.

The EU's renewable energy legal regime also had its challenges. For instance, Talus, a scholar of EU energy law, pointed out that a significant issue with the EU's energy policy is national interference, emphasising that energy matters are too sensitive and political for regional regulation.[146] Talus' argument is based on

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[141] Bartłomiej Igliński, Urszula Kiełkowska, Krzysztof Mazurek, Sebsstian Drużyński, Michał B Pietrzak, Gopalakrishnan Kumar, Ashokkumar Veeramuthu, Mateusz Skrzatek, Marek Zinecker and Grzegorz Piechota, 'Renewable energy transition in Europe in the context of renewable energy transition processes in the world. A review' (2024) 10 (24) Heliyon, <https://www.sciencedirect.com/science/article/pii/S2405844024170284 > accessed 26 June 2025.

[142] Eyene Okpanachi, Terhemba Ambe-Uva and Anas Fassih, 'Energy regime reconfiguration and just transitions in the Global South: Lessons for West Africa from Morocco's comparative experience' (2022) 139 F <https://www.sciencedirect.com/science/article/pii/S0016328722000349> accessed 26 June 2025.

[143] Israel Solorio and Pierre Bocquillion, 'A Brief Overview of its Histroy and Evolution' in Israel Solorio and Helge Jörgens (eds), *A Guide to EU Renewable Energy Policy: Comparing Europeanisation and domestic policy change in the EU Member States* (UK: Edward Elgar 2017) ch 2.

[144] ibid.

[145] ibid.

[146] Tim Talus, *Introduction to EU Energy Law* (Oxford Press 2016) ch 1.

the EU's lack of an EU-wide support scheme for renewable energy resources.[147] Nevertheless, this research demonstrates that the EU's renewable energy laws and policies continue to evolve, and the EU remains proactively committed to addressing its domestic renewable energy policy issues through the implementation of the Renewable Energy Directives.

Furthermore, Talus, in another publication with Sirja-Leena, noted that despite national concerns over a centralised support scheme for renewables, the EU has established a substantial body of secondary legislation. Consequently, shifting its renewable energy approach from non-binding goals to mandatory targets.[148] Therefore, this research argues that the ECOWAS, in terms of renewable energy and energy transition legal framework, have lessons to learn from the EU because — despite the EU's challenges with having a centralised EU-wide support system for renewable energy development and energy transition — the EU has moved from indicative and non-binding targets to setting legally binding targets. Chapter Five of this research demonstrates that the EU has largely achieved its renewable energy targets. It also continues to assess and monitor the support mechanisms used by member states in order to establish a centralised renewable energy system for the future.

In summary, this research draws on reports from the IRENA, the IEA, the United Nations, the World Bank, and the African Development Bank regarding the prospects for renewable energy in West Africa. These reports were instrumental to the current research because they underscore the need for a robust legal framework — including binding legislation, capacity-building, and harmonised regional integration — to promote renewable energy development and the transition from fossil fuels to renewable energy. Therefore, this section on the literature review offers a brief overview of the scholarly literature that underpins the arguments central to this research.

[147] ibid.

[148] Sirja-Leena Penttinen and Kim Talus, 'Development of the Sustainability Aspect of EU Energy Policy' (2014) Paper No 16 University of Eastern Finland Legal Studies Research <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2472863 > accessed 28 April 2025.

1.10 Research Methodology and Methods

According to Cook, 'Research is an honest, exhaustive, intelligent searching for facts and their meanings or implications concerning a given problem.[149] The findings of a given piece of research should be an authentic, verifiable contribution to knowledge in the field studied.'[150] In other words, Research methodology is the scientific understanding of the systematic acquisition of solutions to research problems.[151] The methodology encompasses the research's overall design, which includes selecting the objectives, framing the research questions, and choosing appropriate methods.[152] Therefore, all investigation outcomes and the research provide findings.[153]

To evaluate the legal framework for renewable energy and energy transition within ECOWAS, the qualitative research method[154] and doctrinal research methodology[155] were utilised; also, the comparative research methodology[156] was employed to allow this researcher to examine the EU's integration in terms of its renewable energy development and energy transition legal framework to identify lessons for ECOWAS. Therefore, this research employs a rigorous, structured approach that guarantees validity and reliability in doctrinal research, which primarily focuses on the examination of legal texts, statutes, case law, and scholarly commentaries — specifically, strategies to ensure validity involve leveraging comprehensive legal sources, conducting balanced reviews across various legal perspectives, and upholding doctrinal consistency by aligning legal interpretations with established principles and precedents.

[149]Dwi Astuti Wahyu Nurhayati, 'Research Methodology' (2020) AP <http://repo.uinsatu.ac.id/18458/1/Dwi%20Astuti%20Wahyu%20Nurhayati_Research%20Method.pdf> accessed 1 May 2025.

[150] ibid.

[151] Regatte Sahithi, 'A Qualitative Review on Research Methodology: An Overview' (2021) 9(8) IJRASET <https://doi.org/10.22214/ijraset.2021.37309> accessed 1 May 2025.

[152] Sanne Taekema and Wibren van der Burg, *Contextualising legal research: a methodological guide* (Northampton, Edward Elgar Publishing 2024) ch 1.

[153] Prabhat and Meenu Mishra Pandey, 'Research Methodology: Tools and Techniques' (2015) BC <https://www.euacademic.org/BookUpload/9.pdf> accessed 1 May 2025.

[154] Ranjit Kumar, *Research Methodology: a step-by-step guide for beginners* (5th edn, SAGE Publication 2019) ch 9.

[155] Taekema and Burg (n 152) ch 3.

[156] Maurice Adams, 'Comparative disciplines: an introduction' in Maurice Adams and Mark Van Hoecke (eds), *Comparative Methods in Law, Humanities and Social Sciences* (Elgar 2021) ch 1.

1.10.1 Doctrinal Research Methodology

The doctrinal research methodology was employed to examine laws, doctrines, and legal gaps in regulating renewable energy development and energy transition at the regional level within the Economic Community of West African States (ECOWAS). This adoption is based on the ECOWAS policy regarding the legal framework for renewable energy and energy transition. The doctrinal research methodology involves systematically identifying legal sources, followed by the interpretation and analysis of the relevant texts.[157] Accordingly, the doctrinal methodology is narrative, evaluative, and analytical, drawing on primary and authoritative sources to formulate engaging and thought-provoking questions about the investigated phenomenon.

1.10.2 Comparative Law Research Methodology

Globalisation and technological advancement, alongside global environmental challenges, have intensified the need to seek best practices from various legal systems and institutions, both foreign and domestic. This is crucial as countries aim to address the effects of climate change and global warming. Particularly by enacting laws and policies in line with the Paris Agreement to manage the consequent global environmental issues.[158] Consequently, scholars, governments, and organisations – both domestic and foreign – must develop strategies to create laws and policies that address the ongoing environmental challenges impacting human existence. For instance, in 2019, the United Kingdom (UK) halted its support for fracking due to the identified ecological effects of the practice.[159] Even though the current UK government has reopened fracking opportunities, opposition to fracking in the UK remains strong due to climate change,[160] and it has been asserted that the current UK government's support for fracking is a

[157] Terry Hutchinson and Nigel Duncan, 'Defining and Describing what was do: Doctrinal Legal Research' (2012) 17(1) DLR 85, 119 <https://heinonline-org.ezproxy.lib.gla.ac.uk/HOL/Page?public=true&handle=hein.journals/deakin17&div=8&start_page=83&collection=journals&set_as_cursor=0&men_tab=srchresults> accessed 13 January 2025.

[158] Paris Agreement (n 65).

[159] Fiona Harvey, 'Fracking won't work in the UK says founder of fracking company Cuadrilla' (*The Guardian,* 21 September 2022) <https://www.theguardian.com/environment/2022/sep/21/fracking-wont-work-uk-founder-chris-cornelius-cuadrilla> accessed 15 November 2022.

[160] Department for Business, Energy and Industrial Strategy, *Government ends support for fracking Gov. UK* (Press Release, 2019) <https://www.gov.uk/government/news/government-ends-support-for-fracking> accessed 2 July 2025.

'political gesture' as there is no justification for fracking in the UK.[161] Additionally, in East Africa, the EU has called for suspending oil extraction due to the environmental impacts of fossil fuels. However, the Ugandan government and its institutions vehemently oppose the EU's stance, insisting that extraction must continue regardless of the consequences.[162]

Given the varied outcomes and opinions on the necessity of environmental protection, this research does not aim to compare EU and ECOWAS integration. Instead, it focuses on understanding the EU's legal system and governance to identify potential lessons for ECOWAS in developing renewable energy and establishing a legal framework for energy transition. The EU was selected for this research due to its status as a regional organisation that has been recognised for its significant achievements, particularly in the development of renewable energy and the implementation of its energy transition legal framework. Furthermore, in its energy policy, ECOWAS acknowledged that it is following the example set by the European Union in establishing its renewable energy and energy efficiency policies. Accordingly, this research primarily focuses on ECOWAS and its potential to promote the development of renewable energy in the sub-region. Consequently, it is contended that to better understand the ECOWAS integration approach and its institutional frameworks, one must analyse a similar integration scheme such as the EU, including its aims and objectives, governance structures, as well as the challenges and benefits since its inception. This is why the comparative research methodology was adopted, enabling this researcher to learn from the EU and to draw lessons for ECOWAS. Since no country can succeed on its own in the face of globalisation, technological progress, and environmental challenges, it is vital to study and learn lessons from different legal frameworks and regions.[163]

[161] David Shukman, 'What is fracking and why it its controversial?' (*BBC*, 26 October 2022) <https://www.bbc.co.uk/news/uk-14432401> accessed 2 July 2025.
[162] Yasuyoshi Chiba, 'Uganda condemns EU's resolution slamming oil pipeline' (*African News*, 22 September 2022) < https://www.africanews.com/2022/09/19/uganda-condems-eu-resolution-slamming-oil-pipeline/> accessed 2 July 2025.
[163] Dinah Ba Hung Anh and Nguyen Hoang Tien, 'Comparative analysis of the process of economic integration of EU and ASEAN' (2019) 5(3) IJCMR 96-99<https://www.researchgate.net/publication/338719457_Comparative_analysis_of_the_process_of_economic_integration_of_EU_and_ASEAN> accessed 2 July 2025.

Accordingly, adopting a comparative methodology enabled this researcher to examine the historical background, formation, and institutions of regional integration schemes such as the EU, demonstrating how integration has benefited its members. Integration schemes are typically established for the same purpose, but with different principles and integration goals.[164] For instance, Chapter Three employs the comparative legal research methodology to understand and review EU integration. This is to draw lessons for the ECOWAS regarding its legal framework and institutional competence to make a case for renewable energy development and energy transition in the ECOWAS sub-region. To this end, the paragraphs below provide a deeper examination of the comparative research methodology, including its necessity for the current research, the aspects to be compared, the relevance of the comparison, and the methods employed in the adopted comparative legal methodology.

1.10.2.1 What is the Comparative Law Methodology?

Scholars have noted that legal comparison is becoming popular due to increased information about other societies.[165] Maurice and Hoecke define comparative legal research as a general form of legal research in which the researcher attempts to reconstruct a domestic legal system alongside a foreign legal system, similar to individual legal research on foreign or domestic law.[166] While Bell defines comparative legal research as a study aimed at achieving synchronisation, if not the unification of laws and rules, it also involves analysing the principles and dynamics of existing regulations and laws of the states or institutions under study.[167] Bell contends that comparative legal research demonstrates how legal goals can be achieved through different rules and institutions in various contexts.[168] Furthermore, Bell considers comparative legal research as 'normativity', where the comparative researcher seeks to answer normative questions about what the law should be, serving domestic unity and addressing

[164] ibid.
[165] Adams Maurice and Mark van Hoecke, *Comparative Methods in Law, Humanities and Social Sciences* (Edward Elgar 2021) ch 12.
[166] ibid.
[167] John Bell, 'Legal Research and the Distinctiveness of Comparative Law' in Mark van Hoecke (ed), *Methodologies of Legal Research: Which Kind of Method for What Kind of Discipline* (Vol 9, Oxford Hart 2022) ch 9.
[168] ibid.

broader issues of justice, energy, social, and political concerns.[169] Consequently, it is contended that a functional analysis of laws and regulations that appear to serve the same function in climate change and energy transition should be adopted. Conversely, it is necessary to address them as this research examines how relevant laws and policies can promote energy transition and renewable energy development in the West African sub-region.

Additionally, Hoecke, in agreement with Maurice,[170] contends that comparative legal methodology involves comparing domestic law within the same area regulated in one or more other countries.[171] Hence, this research in Chapter Four evaluates the renewable energy and energy transition legal frameworks of Nigeria, Ghana, and Liberia to decipher lessons that ECOWAS member states can learn from other member countries. Hoecke suggests various research methods that could be explored in comparative legal methodology, including the functional, analytical, structural, historical, common-core, and law-in-context methods.[172] However, this research utilised the functional and historical methods.

- **The Functional Method**

The current research drew on Hoecke's functional approach and Graziadei's functional method,[173] both of which involve examining similarities and differences in the outcomes of the legal systems being compared. Focusing on the societal problem, the actual results of different legal systems, and the approaches applied to solve these problems. This research employed this approach to address the research question of how integrating a renewable energy legal framework can promote renewable energy development while facilitating energy transition in the

[169] ibid.
[170] Maurice (n 156).
[171] Mark van Hoecke, 'Methodology of Comparative Legal Research' (2015) LM 12 1, 35 <https://www.researchgate.net/publication/291373684_Methodology_of_Comparative_Legal_Research> accessed 11 May 2025.
[172] ibid.
[173] Michele Graziadei, 'The Functionalist Heritage' in Pierre Legrande and Roderick Munday (eds) *Comparative Legal Studies: Traditions and Transitions* (Cambridge University Press 2003) ch 5; Mark van Hoecke, 'Methodology of Comparative Legal Research' (2015) LM 12 1, 35 < https://www.researchgate.net/publication/291373684_Methodology_of_Comparative_Legal_Research> accessed 11 May 2025.
[173] Esin Örücü, *The Enigma of Comparative Law: Variations on a Theme for the Twenty-First Century* (Martinus Nijhoff Publishers 2004) ch 2.

West African sub-region. Therefore, in chapter five of this research, the researcher explores the functional method of comparative legal methodology to demonstrate whether EU integration has assisted its members in collectively combating climate change, fostering the transition from fossil fuels to renewable energy, and examining the legal mechanisms employed within the EU. According to Orücü, the method examines law only, where law refers to a body of laws and rules, and does not include the process of enacting or harmonising the same.[174] Furthermore, regarding the EU, Orücü argued in favour of utilising the functional method as a valuable tool for researchers to understand how the EU enacts laws and rules to solve common problems, rather than focusing on the process of harmonising them.[175]

Overall, the functional method presented by Hoecke, Graziadei and Orücü effectively helps to achieve the research's aims and objectives and address the research questions raised. Chapter Three of this research addresses these questions by assessing ECOWAS in comparison to the EU regarding their integration arrangements and how regional integration schemes differ from confederation and federalism. By examining the EU and ECOWAS, this researcher discussed ideas that can help legislators at both national and regional levels in West Africa make decisions, enact laws to tackle the energy crisis affecting its citizens, and explore energy sources beyond fossil fuels as they collectively promote the transition from fossil fuels to renewables in the West African sub-region.

- **The Historical Method**

Hoecke argued that, in comparative legal methodology, the historical method helps researchers understand the differences and commonalities among legal systems and determine the degree to which they belong to a deeply rooted tradition rather than the result of accidental historical events.[176] Thus, the historical research method provides in-depth knowledge of the history and background of ECOWAS and EU integration, as well as their member states and institutional frameworks. Furthermore, the historical method facilitates an understanding of the significant and ongoing impacts of colonialism on the

[174] ibid.
[175] ibid.
[176] Hoecke (n 171).

ECOWAS legal framework, as detailed in Chapter Two of this research. According to Örücü and Legrand, before comparing different legal systems or transferring a rule or law from one jurisdiction to another, attention should be paid to the historical, cultural, and political contexts of the different legal systems being compared.[177] Thus, the historical method in comparative legal methodology continues to engage comparative researchers because of its role in understanding history and historical events, as demonstrated in this research, given the colonial and historical connections between Europe and West Africa, specifically between the European Union and ECOWAS.

In their scholarly research, Anh and Tien conducted a comparative analysis of the economic integration processes of the EU and the Association of Southeast Asian Nations (ASEAN) using a historical method.[178] Furthermore, Anh and Tien examined international economic integration, including its benefits and challenges, from the perspectives of the EU and ASEAN, highlighting that integration enables both strong and weak nations to achieve common goals.[179] By utilising this method, the researcher delves deeper into understanding the lasting effects of colonialism on the legal structures of ECOWAS and its member states. The following subsections address the need for comparison, what should be compared, and the relevance of comparative legal methodology.

1.10.2.2 Why Legal Comparison?

As previously discussed, the need to compare legal systems and engage in comparative legal research remains relevant due to globalisation, technological advancement, and the environmental and energy crises facing both developed and developing economies. Therefore, it is beneficial to examine other legal systems – both foreign and domestic- to improve or rectify the shortcomings in one's legal framework. For example, by reviewing other regional entities such as the EU, which share similar objectives, along with their legal frameworks and institutional

[177] Pierre Legrand, 'The Impossibility of Legal Transplants' (1997) 4(2) MJECL 111, 124 <https://heinonline-org.ezproxy.lib.gla.ac.uk/HOL/Page?public=true&handle=hein.journals/maastje4&div=13&start_page=111&collection=journals&set_as_cursor=0&men_tab=srchresults> accessed 16 November 2022.
[178] Anh and Tien (n 163).
[179] ibid.

structures, this researcher gained a more comprehensive understanding of the rights, limitations, and competencies of regional institutions. Consequently, this analysis provides insights that ECOWAS legislators may consider to enhance ECOWAS' legal and institutional frameworks to better support the development of renewable energy and facilitate the energy transition within the sub-region.

Regarding the question of why legal comparison is essential, Glenn has identified several reasons, including harmonisation of law, contributions to one's legal system through knowledge acquisition from other legal systems, and a better understanding of these systems.[180] This is why, in the current research, the researcher reviewed the ECOWAS legal system and its institutional setting within the context of the EU. This approach enables the researcher to address the question, 'How can the integration and cooperation of renewable energy legal frameworks promote the development of renewable energy in West Africa?' Glenn further argues that the researcher's aim can partly determine the approach taken by the comparative legal researcher; however, the researcher should focus on the commonalities—the common core of the compared legal systems.[181] Correspondingly, in Chapter Three, this researcher critically examined regional integration and various regional and governance initiatives to support ECOWAS. In this context, a comparative analysis was conducted to identify commonalities across the different schemes, including shared objectives, challenges, and benefits.

Additionally, Chapter Five addresses the concept of harmonisation, emphasising how the consistency of the ECOWAS legal framework for renewable energy development and energy transition can be improved through ECOWAS integration by drawing lessons from the EU. Accordingly, by Glenn's argument, this researcher critically examines the ECOWAS legal framework and its institutional coordinates to advocate for the enactment of laws and rules that encourage the development of renewable energy in the sub-region, while promoting energy transition. Therefore, the researcher's choice of a comparative legal methodology aligns with

[180] Patrick H Glenn, 'The aims of Comparative Law' in Jan Smits (eds) *Encyclopaedia of Comparative Law* (2nd edn, Edward Elgar Publishing 2012) ch 4.
[181] ibid.

the principles of comparative legal research, which were utilised to achieve the aim and objectives of this research.

In other words, by comparing the EU and ECOWAS integration schemes in terms of their legal frameworks in support of renewable energy development and energy transition, the researcher can effectively identify similarities, differences, and challenges to derive lessons for ECOWAS regional integration. Essentially, comparison primarily helps researchers gain deeper insight into their legal systems by contextualising foreign legal frameworks. The findings from this research can enhance the coherence of the domestic legal system and guide how various legal systems formulate laws and policies to tackle fundamental challenges. Understanding these dynamics necessitates a thorough examination of comparable legal systems and institutional frameworks.

1.10.3 Justification for the Research Methodology and Method

By justification, this research, which critically examines the existing ECOWAS legal and policy framework, systematically gathered other relevant, reliable, and valid knowledge to propose solutions that could lead to change and improvement in the current renewable energy and energy transition laws and policies of ECOWAS and its member states. This researcher utilised the qualitative research method, doctrinal legal research and the comparative research method to critically review the ECOWAS and other regional bodies — looking at the differences and similarities in the institutional settings, legal concepts and procedures, the roles of organisations, as well as the relationship between legal institutions of both ECOWAS and the EU to decipher lessons that could be learned.

1.11 Chapter Analysis of the Research

Chapter One investigates the global renewable energy context, thereby establishing the connections between sustainable development, renewable energy development, the energy transition legal framework, regional integration, and the ECOWAS renewable energy legal framework. Furthermore, it presents the research questions, aim, objectives, contribution to knowledge, impact, limitations, literature review, methods, methodology, justification of the research methodology, chapter analysis, and conclusion.

Chapter Two: Reviews ECOWAS' integration — including its background, legal framework, and governance structure — to assess how ECOWAS integration can promote the development and utilisation of renewable energy sources as well as facilitate the energy transition. The main point of this chapter is that the current legal framework and institutional structures of ECOWAS may not be sufficiently utilised to support the development of renewable energy and energy transition in the sub-region, given the competencies of ECOWAS institutions and ECOWAS' relatively weak legal framework.

Chapter Three: Assess regional integration, scholarly definitions of regional integration, and evaluate global concepts of regional integration to support renewable energy. The chapter examines EU integration alongside other arrangements, such as confederation and federalism, by countries to determine how they differ from the EU and ECOWAS integration schemes. Furthermore, the chapter contends that to promote renewable energy development and facilitate the energy transition in the sub-region, ECOWAS may consider restructuring its institutions and legal framework to create a supranational institution that operates independently of domestic influence and governance. The main finding of this chapter is that ECOWAS integration aligns more with intergovernmentalism and falls short of an integration scheme like the EU, which is more of a neofunctional institution that established a supranational organisation.

Chapter Four: Evaluates the ECOWAS laws and policies regarding renewable energy to ascertain their effectiveness in facilitating the shift from fossil fuels to cleaner, sustainable energy resources. Additionally, this chapter examines the renewable energy laws, policies, institutions, and programmes of ECOWAS and its member states, assessing their impact on the current legal framework of those states and culminating in a conclusion. The main finding of this chapter is that the current ECOWAS renewable energy legal framework does not adequately influence domestic renewable energy and energy transition legal frameworks, resulting in a lack of alignment and harmonisation of the ECOWAS renewable energy and energy transition laws and policies among its member states.

Chapter Five: Critically examines the legal frameworks for Renewable Energy Development and Energy Transition in the EU and ECOWAS. This analysis is to assess the impact of their regional arrangements and highlight the need to strengthen ECOWAS laws and policies to promote renewable energy and facilitate the transition from fossil fuels to cleaner, sustainable energy sources. The main finding of this chapter is that both the EU and ECOWAS' legal frameworks for renewable energy and energy transition currently lack harmonisation. However, the EU's issue with harmonisation pertains to its renewable energy support schemes, which the chapter finds are managed adequately through its renewable energy Directives. In contrast, the chapter finds that ECOWAS' challenge in harmonising its renewable energy laws and policies primarily stems from its institutional competence and a weak legal framework, which is affecting alignment, harmonisation, and implementation of the ECOWAS renewable energy and energy transition laws and policies in its member states.

Finally, Chapter Six presents the overall conclusion of this research. Overall, the research finds that ECOWAS has enacted laws and policies to promote its renewable energy resources and facilitate energy transition in the sub-region. However, the current ECOWAS integration legal framework, as well as its renewable energy development and energy transition legal framework, remains weak and unaligned, hindering the promotion and development of its renewable energy resources and the energy transition. This finding is based on the review of the EU renewable energy development and energy transition legal framework, from which lessons were drawn for ECOWAS, as presented in this chapter.

1.12 Chapter Conclusion

The comparative legal methodology and methods employed in this research enable the researcher to acquire the requisite knowledge of EU and ECOWAS integration and to determine the impact of regional integration on the renewable energy and energy transition frameworks of the EU and ECOWAS. The effects of regional integration and cooperation in the renewable energy sector can significantly benefit the ECOWAS and its member nations in their efforts to transition to renewable energy. This can be achieved by establishing a coordinated and integrated legal framework within ECOWAS that facilitates the transition to renewable energy while promoting economic and social development. Therefore,

this research advocates for a comprehensive and well-considered framework aimed at transforming ECOWAS' legal structure, and renewable energy laws and policies to support the energy transition —thus moving beyond mere respect for states' sovereignty to enhancing citizen welfare through improved sustainable development. Consequently, the next chapter begins with a review of ECOWAS' historical context and formation, including its overall legal and institutional framework.

CHAPTER TWO

A REVIEW OF THE HISTORY AND BACKGROUND OF THE ECOWAS INTEGRATION AND ITS LEGAL FRAMEWORK

2.1 Introduction

The World Health Organisation (WHO) notes that, in 2022, 570 million individuals in sub-Saharan Africa lacked access to electricity, representing over 80% of the global population without access.[182] However, in 2023, progress was reported, showing a reversal of approximately 10 million units compared to 2022, driven by renewed grid expansions and the adoption of Solar Home Systems (SHS) in sub-Saharan Africa.[183] Electricity is a crucial commodity, and access to energy in the developing world is argued to reduce poverty.[184] For example, Karin Reiss, the United Nations' Sustainable Energy for All Forum (SE4ALL) Coordinator at the ECOWAS, notes that 'energy poverty' in the region is hindering economic and social growth in the ECOWAS sub-region.[185] Filho and others define energy poverty as the inadequate access to a sufficient energy supply, highlighting it as a significant development issue in Africa.[186] This remains the case even though, as the IRENA rightly observes, the region has abundant natural resources, including renewable energy sources that can power the entire region if developed.[187] This suggests that, with binding laws and policies that include implementation,

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[182] World Health Organization (WHO), 'Progress on basic energy access reverses for first time in a decade' (*WHO*, 12 June 2024) <https://www.who.int/news/item/12-06-2024-progress-on-basic-energy-access-reverses-for-first-time-in-a-decade> accessed 27 June 2025.

[183] International Energy Agency, 'Access to electricity', *(IEA*, 27 June 2025), <https://www.iea.org/reports/sdg7-data-and-projections/access-to-electricity> accessed 27 June 2025.

[184] Columbo Emmanuela, Stefano Bologna and Diego Masera, *Renewable Energy for unleashing sustainable development blending technology, finance, and policy in low and middle income economies* (Cham Springer 2013) 2, 5.

[185] Karin Reiss, 'Developing Renewable Energy Sectors and Technologies in West Africa' *(United Nations,* December 2015) <https://www.un.org/en/chronicle/article/developing-renewable-energy-sectors-and-technologies-west-africa> accessed 6 July 2025.

[186] Walter Leal Filho, Andrea Gatto, Ayyoob Sharifi, Amanda Lange Salvia, Zeus Guevara, Samuel Awoniyi, Carelle Mang-Benza, Cosmos Nike Nwedu, Dinesh Surroop, Kevin Ovita Teddy, Usman Muhammad, Victoria R Nalule and Izael da Silva, 'Energy poverty in African countries: An assessment of trends and trends and policies' (2024) 117 ERSS <https://www.sciencedirect.com/science/article/pii/S221462962400255X?ref=cra_js_challenge&fr=RR-1> accessed 25 April 2024.

[187] International Renewable Energy Agency, 'West Africa Clean Energy Corridor' *(IRENA,* November 2019) <https://www.irena.org/cleanenergycorridors/West-Africa-Clean-Energy-Corridor> accessed 30 March 2022.

monitoring and evaluation mechanisms for developing various renewable energy sources, the region could substantially increase electricity access, thereby supporting the transition from fossil fuels to renewable energy in the sub-region. For instance, Filho and others contended that a lack of policy implementation is a significant hurdle to tackling energy poverty in Africa.[188]

This chapter examines the history, background, formation, and legal framework of ECOWAS integration, as well as the mechanisms by which ECOWAS' existing legal framework supports the development of renewable energy and the energy transition in the sub-region. The need for an in-depth understanding of the foundations of ECOWAS integration in this research cannot be underestimated, as it argues that a regional integration scheme such as ECOWAS, with the relevant governance structure and institutional competence, could address energy poverty, security, supply, and affordability within ECOWAS. Accordingly, the historical and background analysis of ECOWAS integration in this chapter demonstrates that a regional approach could promote renewable energy development and energy transition, as ECOWAS legal instruments support further integration and cooperation.

This chapter also examines colonialism and decolonisation in West Africa and shows the effects of colonialism on the integration of ECOWAS and its legal instruments – governance structure. Therefore, this analysis encompasses the ECOWAS legal framework, its institutions, and operational mechanisms. This chapter concludes that the legacies of colonialism and the pursuit of national independence from colonial rule may have hindered ECOWAS integration, as evidenced in its governance structure and institutional legal capacity. However, this chapter argues that ECOWAS integration could be leveraged to foster renewable energy development and the energy transition in the sub-region, despite the historical and legal system differences among ECOWAS members.

2.2 Historical Background of the ECOWAS Countries

Before the European invasion and conquest between 1885 and 1914, the people of pre-colonial West Africa governed themselves according to their traditional

[188] Filho and others (n 186).

customs and values.[189] The geographical area known as West Africa today was divided and named by Europeans during the Berlin Conference held between 1884 and 1885.[190] In the 1800s, Europeans struggled to gain influence over most of Africa's territory.[191] This tussle for Africa has been labelled as a 'Scramble for Africa' by some scholars.[192] The Berlin Conference, therefore, marked the moment when the different European powers met to decide the future of Africa, as Africa was formally apportioned among them.[193]

In terms of energy, Chimee argued that colonialism is a search for alternative energy sources. This position is well depicted in Chimee's account of Coal in Nigeria and British Colonialism. [194] For example, in the case of Nigeria, it is argued that the British, during colonial rule, systematically divided the population to exploit their natural resources, such as coal, which was a significant source of 'cheap' energy to power the Global North's industrial revolution. At this time, the colonial power turned the indigenous people into servants and labourers to mine coal to be exported to Europe, while paying less or no attention to the development, welfare, or health of the people.[195] Additionally, in their study on the impact of colonialism on Africa's renewable energy and transition opportunities, Archibong and Afolabi argue that the domination and dispossession of that era are brutal to ignore, as these factors continue to influence the advancement of Africa's political, economic, and energy sectors.[196]

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[189] Achebe Nwando, Samuel Adu-Gyamfi, Hoassoum Ceesay, Toby Green, Vincent Hiribarreb and Ben Kye-Ampadu, *History Textbook* (West African Senior Certificate Examination 2018) ch 2.
[190] Frank Sherman, *Liberia: The Land, Its People, History and Culture* (1st edn, New African Press Dar es Salaam Tanzania 2011) 11, 12.
[191] Nwando and others (n 189) ch 7.
[192] George Shepperson, 'The Centennial of the West African Conference of Berlin, 1884-185' (1960) 45(1) Phylon 37, 48 <https://www.jstor.org/stable/274944> accessed 28 June 2022.
[193] ibid.
[194] Ihediwa Nkemjika Chimee, 'Coal and British Colonialism in Nigeria' in Clapperton Chakanetsa Mavhunga (eds), *Energy (and) Colonialism, Energy (In) Dependence: Africa, Europe, Greenland, North America* (2014) No 5 Rachel Carson Center 19, 24 <https://www.jstor.org/stable/pdf/26241271.pdf?refreqid=excelsior%3A1c5de539e46f8d5986de29c1eb2667a6&ab_segments=&origin=&acceptTC=1> accessed 6 July 2025.
[195] ibid.
[196] Emmanuel Iniobong Archibong and Abiodun Paul Afolabi, 'From colonial exploitation to renewable transition: A Critical analysis of Africa's energy paradigm' (2023) 7 (4) EJSDR 1, 9 <https://www.ejosdr.com/download/from-colonial-exploitation-to-renewable-transition-a-critical-analysis-of-africas-energy-paradigm-13635.pdf> accessed 30 April 2025.

Essentially, Chimee, Archibong, and Afolabi argued that both colonial and post-colonial experiences reflect a persistent pattern of natural resource exploitation, primarily serving the economic interests of colonial and foreign powers rather than local development. According to these scholars this perspective casts a critical light on the current global push for energy transition, suggesting that it risks becoming yet another mechanism through which West African states are denied full benefits from their natural resources—particularly oil and gas—while industrialised nations, historically responsible for the majority of greenhouse gas (GHG) emissions, continue to dictate the terms of transition. Their argument raises important questions about equity, historical responsibility, and the risk of perpetuating neo-colonial economic structures under the guise of climate action. As buttressed in their journal titled 'Neo-colonialism and leaving fossil fuels underground: a discourse analysis of the potential German Senegalese gas partnership', Vliet and others examine two discourses: the Global North's discouragement of fossil fuel use and, conversely, developed nations' support for fossil fuel projects in the Global South as neo-colonial exploitation.[197]

As earlier discussed, West Africa's governance, sovereignty, and regional collaboration continue to be significantly influenced by colonial legacies. As of 2025, ECOWAS' democratic governance and regional cooperation are still hindered by legacies of economic dependence on resource extraction, ethnic divisions, and weak state institutions. Invariably, the challenges resulting from colonial legacies could hinder renewable energy development and the energy transition in West Africa.

2.2.1 Colonialism

Colonialism is a form of domination in which one group of people exercises power over another. Jamieson described colonialism as the occurrence of foreigners in a territory far from their homeland, where they engage in an unequal relationship characterised by the domination and exploitation of the local community.[198] As

[197] Luc van Vliet, Janina Herzog-Hawelka and Clara McDonnell, 'Neo-colonialism and leaving fossil fuels underground: a discourse analysis of the potential German-Senegalese gas partnership' (2025) 125 ERSS <https://doi.org/10.1016/j.erss.2025.104121.> accessed 29 June 2025.
[198] Ross Jamieson, 'Colonial Praxis' (2008) EA 1029, 1034 <https://www.sciencedirect.com/science/article/pii/B9780123739629000613> accessed 30 April 2025.

mentioned in the previous section, colonisation disrupted the communal lifestyle that the people of West Africa once enjoyed by imposing restrictions and boundaries on their movement, interactions, traditions, and activities. For example, in today's francophone Africa, the former French colonies, the French introduced a form of colonial policy known as assimilation, which involved the French completely imposing French culture, language, and religion on the indigenous people,[199] a complete eradication of the culture, language, and way of life traditionally known, managed, and enjoyed by the indigenous people. During the colonial era, the French colonies were directly governed by the French from Paris, whereas the British colonies were governed indirectly.[200] In essence, during colonisation, the British used the community heads and chiefs noted in Section Two above to rule the people indirectly.[201] While the British introduced a new justice system, education, and religion to their colonies, the French imposed French culture on theirs under the guise of bringing French civilisation to Africa.

Meanwhile, the governance structures and policies introduced by the colonial masters to conveniently govern and exploit the natural resources of the indigenous people remain a subject for scholars in the field. Years after Africa attained independence, the impact of colonialism, as Arewa argues, continues to affect its governance structure and is responsible for the continent's current governance failures.[202] There is a rich literature on the phenomenon of neo-colonisation. Drawing from about 52 energy transition materials centred on Africa, Manda and others develop a new understanding of energy transition through a qualitative historical analysis of the links between the 'so-called' global transition and histories of colonialism and capitalism in sub-Saharan Africa.[203] Manda and others

[199] Alexander Lee and Jack Paine, 'What were the Consequences of Decolonisation' (2019) 63 (2) ISQ 406, 416 <https://academic.oup.com/isq/article/63/2/406/5377578?login=true#135844581> accessed 9 July 2025.
[200] Chimee (n 194).
[201] John Gerring, Daniel Ziblatt, Johan Van Gorp and Julian Arévalo, 'An Institutional Theory of Direct and Indirect Rule' (2011) 63(3) WP:QJIR 377, 433 <https://www.cambridge.org/core/journals/world-politics/article/an-institutional-theory-of-direct-and-indirect-rule/273A5AF537FBBD0D1A7C4959D3DE83A0> accessed 19 July 2022.
[202] Olufunmilayo B Arewa, *Disrupting Africa: Technology, Law, and Development* (Cambridge University Press 2021) ch 2.
[203] Simon Manda, Sambo Lyson Zulu, Toyin Ebenezer Adeyemi, 'The centrality of energy transition: New global shifts and old realities for sub-Saharan Africa' (2025) 105 RP <https://doi.org/10.1016/j.resourpol.2025.105596.> accessed 29 June 2025.

critique the dominant focus on global transitions and propose multiple transitions from a justice and African perspective, suggesting an alternative dialogue that leverages national and regional experiences.[204] Manahan and others argue that they 'see that green colonialism is deeply intertwined with the expansion of colonial power and capitalist interests, rooted in the extractivist logic that has pervaded since the onset of European colonial expansion in 1492'.[205]

Murray argued that colonialism did not conclude with decolonisation; instead, it continues today in a modified form known as neo-colonialism.[206] This is because, even after independence, the coloniser continues to indirectly interfere in the governance of their colonies.[207] As a result, African countries continue to adopt the law-making processes of their colonial masters without considering that they are now independent and sovereign nations, nor the context in which they existed before the arrival of the colonial masters, nor the fact that Africa had its own culture and practices. Notably, a complex and frequently contentious relationship exists between international law, energy transition, and neocolonialism.[208] In the energy sector, neocolonialism refers to the persistent, exploitative practices by developed nations over developing nations, even after formal decolonisation.[209] This process regularly involves extracting resources from the Global South to sustain the consumption of the Global North. This practice has the potential to impede the South's own energy development and perpetuate economic dependence. On the contrary, the theoretical objective of international law is to prevent such exploitation and establish a level playing field. Nonetheless, in practice, it may be impacted by power imbalances and may not adequately address neo-colonial dynamics in the energy transition.

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[204] ibid.

[205] Mary Ann Manahan, Breno Bringel and Miriam Lang, 'Unmasking Green Colonialism Behind The 'Decarbonization Consensus' <https://www.fian.org/files/is/htdocs/wp11102127_GNIAANVR7U/www/files/WATCH_%20Framing%20Piece_30_05_2024_v2_upload.pdf> accessed 29 June 2025.

[206] Amber Murray, 'Colonialism' (2020) IEG 321, 324 <https://www.sciencedirect.com/science/article/pii/B9780081022955108042#abs0010 > accessed 30 April 2025.

[207] ibid.

[208] Ankit Kumar, Auke Pols and Johanna Höffken, 'Urgency vs justice: A politics of energy transitions in the age of the Anthropocene' in Ankit Kumar, Johanna Höffken and Auke Pols (eds), *Dilemmas of Energy Transitions in The Global South* (Taylor & Francis Routledge 2021) ch 1.

[209] Vliet and others (n 197).

Therefore, ECOWAS requires a robust, legally binding framework to advance its integration and overcome the remnants of colonialism in its legal system. Some of these remnants include economic exploitation by multinational corporations, unequal trade relationships, and political interference by former colonial powers. Additionally, ECOWAS' legal structures mirror the colonial legacy. As a result, ECOWAS struggles with the imposed Western legal models, the persistence of dual legal systems, and efforts to incorporate diverse legal traditions and promote regional cooperation. Furthermore, the implementation of ECOWAS protocols by member states is sometimes contentious due to the enduring power dynamics of the colonial era and the differing national interests of its member states. For instance, Archibong and Afolabi argued that Africa, on its path to renewable energy and energy transition, should remain aware of the 'subtle neo-colonial strategies', such as financial assistance by developed countries with conditionalities that deepen their institutional and economic foothold on the incumbent powers akin to the colonial era, upholding human rights, and exclusive renewable energy development[210] to prevent further exploitation by its colonisers, given that Africa is endowed with vast natural resources.[211]

Escobar argues that Africa has been exploited and strategically underdeveloped as a result of colonial interference and neo-colonial governance, which have enabled European nations and other countries of the global north to develop superior technologies and accumulate wealth.[212] Thus, while Africa may not be as developed or technologically advanced as Europe, or ECOWAS as the EU, it possesses abundant natural resources that, if harnessed, could improve its economic and social growth. Chapters Four and Five of the research demonstrate that ECOWAS lacks a relevant legal framework to advance its integration goals. For example, the French colonial assimilation policy continues to significantly influence its former colonies in West Africa, which may also impact the progress of ECOWAS integration.[213]

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[210] Archibong and Afolabi (n 196).

[211] ibid.

[212] Arturo Escobar, *Encountering Development: The Making and Unmaking of the Third World* (Princeton University Press 2012) ch 1.

[213]Massimo Amato and Kako Nubukpo, 'A New Currency for West African States: The Theoretical and Political Conditions of its Feasibility' (2020) 73 (292) PLSQ R

2.2.1.1 The Effects of Colonialism on West Africa's Legal System

Colonialism fundamentally disrupted every facet of pre-colonial African life, particularly the traditional governance structures. Consequently, the legacy of colonialism continues to significantly impact West Africa today. This section briefly examines how colonial governance systems are said to continue influencing governance and development, including ongoing efforts to meet the shared aspirations of people post-colonialism. There were two systems in West Africa: French colonial policies of assimilation and association, and British indirect rule. The British implemented a governance model termed indirect rule.[214] Today, indirect rule refers to a governance approach in which authority is decentralised, allowing power to be distributed among established governmental units within the political framework.[215] The French colonial assimilation policy was used during colonialism in today's francophone West Africa.[216] With assimilation, the French directly ruled their colonies from France, and the policy meant that the colonies would completely abandon their traditional tenets and way of life in favour of French civilisation.[217]

The impact of colonialism spans a spectrum of legal, political, economic, and social structures. The legal traditions of ECOWAS member states are diverse, including common law (Nigeria and Ghana), civil law (Senegal and Côte d'Ivoire), and mixed or hybrid systems. This research argues that legal pluralism complicates the legal harmony and implementation of regional protocols across diverse jurisdictions with colonial legal transfer heritage. Additionally, the colonial establishment of artificial national borders disrupted pre-colonial trade networks

<https://123dok.org/document/dzxngrvq-currency-west-african-states-theoretical-political-conditions-feasibility.html> accessed 22 July 2022.

[214] Raid Khan, Asif Salim, Zarmina Baluch and Mohammad Kaleem, 'British Colonialism and the Indirect Rule: A Hierarchical Administrative Structure to control the Unruly Tribes' (2021) 9(3) HSR 1366, 1372 <https://www.researchgate.net/publication/352944701_BRITISH_COLONIALISM_AND_THE_INDIRECT_RULE_A_HIERARCHICAL_ADMINISTRATIVE_STRUCTURE_TO_CONTROL_THE_UNRULY_TRIBES > accessed 30 April 2025.

[215] Gerring and others (n 201).

[216] Raymond F Betts, *Assimilation and Association in French Colonial Theory* (University of Nebraska Press 2005) ch 7.

[217] ibid.

and divided culturally and economically integrated communities.[218] Accordingly, ECOWAS' objectives of establishing a common market and shared regulatory space were impeded by the fragmentation of infrastructure and economies, exacerbated by these boundaries.[219] Moreover, the governance institutions that ECOWAS countries inherited were designed for external control and extraction.[220]

Post-colonial states were initially unable to fully participate in collective action, enforce compliance, or domesticate regional laws because of their limited institutional capacity. Additionally, this legacy contributes to the ongoing dependence on external technical and financial assistance, often from former colonial powers, which can limit ECOWAS' autonomy in implementing its policies.[221] For instance, the CFA franc currency system, which restricts monetary sovereignty, remains in place in Francophone states, and former colonial powers continue to exert influence through military, economic, and monetary partnerships.[222] This ongoing influence, this research argues, sometimes creates tensions within ECOWAS and makes it harder to develop a unified regional policy — especially when national interests align more with former colonial powers than with regional unity and cooperation.

In summary, one can argue that the links former colonies have with their colonisers coexist with the diverse interests within ECOWAS and its institutions. As a result, ECOWAS will continue to face challenges in improving its integration, particularly in developing legislation binding on all member states. The hurdles include a lack of infrastructure, policy uncertainty, inadequate regulations,

[218] Karen Jackson, David Potts and Essa Bah, 'West Africa: empirehood and colonialism offer lessons in integration' (*The Conversation,* December 2017) <https://theconversation.com/west-africa-empirehood-and-colonialism-offer-lessons-in-integration-87470> accessed 5 June 2025.
[219] Christof Hartmann, 'Governance Transfer by the Economic Community of West African States (ECOWAS)' (2013) A B2 Case Study Report SFB-Governance Working Paper Series No. 47 Collaborative Research Center <.https://www.sfb-governance.de/publikationen/sfb-700-working_papers/wp47/SFB-Governance-Working-Paper-47.pdf> accessed 14 July 2025.
[220] ibid.
[221] Basil Davidson, 'Comments on Mamdani (Reply to Mahmood Mamdani's Review of 'the Black Man's Burden: Africa and the Nation-State')' (1993) 45 (3) MRNY 49 <https://go-gale-com.ezproxy1.lib.gla.ac.uk/ps/i.do?p=AONE&u=glasuni&id=GALE%7CA13193347&v=2.1&it=r&sid=summon&cookieConsent=true&analyticsOptout=false&aty=ip > accessed 14 July 2025.
[222] Amato and Nubukpo (n 213).

poverty, and high investment costs.[223] The discussions and academic literature on the impacts of colonialism cannot be thoroughly examined in this research due to their vast scope, as previously mentioned. After examining colonialism and its effects on former West African colonies, the following section focuses on decolonisation. Following the Second World War, the push for independence from colonial rule intensified significantly, particularly as former West African colonies sought internal autonomy. Consequently, the colonial powers in West Africa began granting independence to their respective colonies during the 1950s.[224]

2.2.2 Decolonisation

Most of the countries in West Africa were colonised by the British and the French. However, as discussed in the sections above, the era of colonisation dwindled and ended with the withdrawal of the colonisers, and the end of colonisation marked the commencement of decolonisation. Decolonisation represents the process by which states withdraw from their former colonies, leaving them independent from the direct or indirect influence and authority of colonisers.[225] In other words, the colonised territories or states attained social, political, cultural, and economic freedom at independence. As noted, decolonisation did not occur without agitation by the colonised states for this freedom. For example, in 2023, three Francophone ECOWAS nations—Burkina Faso, Mali, and Niger—disengaged from their colonial power by expelling French forces from their former colonies, which characterises a struggle for complete sovereignty.[226] While decolonisation marks the end of colonial rule and the transfer of governance to indigenous citizens, historical developments have shown that the ties between the colonisers and the colonised were not entirely severed at independence, leading to the concept of

[223] Salvador Pereira, Cristóvão Silva and Luis Miguel D F Ferreira, 'Barriers to energy transition: Comparing developing with developed countries'(2025) 87 ESD <https://doi.org/10.1016/j.esd.2025.101753.> accessed 4 July 2025.
[224] Jancen, Osterhammel and Riemer, *Decolonization: A Short History,* (Princeton University Press, 2019) ch 1.
[225] ibid.
[226] Chris Ewokor, 'Three Military-run states leave the West African bloc-what will change?' *BBC* (Abuja, 29 January 2025) < https://www.bbc.co.uk/news/articles/c5yvd91j72eo > accessed 2 May 2025.

neo-colonialism.[227] The following sections provide an overview of independence in West Africa, the concept of neo-colonialism, and its relationship to colonialism.

2.2.2.1 Independence

Independence is the period when former colonies gained freedom from their colonisers—in the case of West Africa, the Europeans, including the French, English, and Portuguese, granted their colonies a supposed independence and sovereignty to local governments, with complete control over domestic and foreign policies.[228] This section argues that colonialism leaves in its trail the vicissitudes of underdevelopment and exploitation that persist to this day. This experience continues to haunt the entire life of former colonies. In West Africa, European governance-imposed restrictions and boundaries on the people for administrative convenience.[229] Forcing the indigenous people to completely forget their laws and ways of life, giving power to chiefs to make their subjects labourers, and turning Africa's endowment of natural resources into a curse to the indigenous people.[230]

The continuous attachment to colonialists by the colonised, this researcher argues, is indeed responsible for the political, economic, and social failure of West African countries. This is because even after independence, the leaders continue to follow the standards left by colonial masters, which has given rise to the concept of neo-colonialism that will be discussed in the next section.[231] For example, Molnar argues that African nations still depend on Western Industrial countries for economic aid, loans, investment, and other technological support, which sustains the ongoing influence of colonial powers.[232] On the contrary, Obadina contends that the colonial situation in Africa and the myth surrounding indigenous growth and development in post-colonial Africa, gush at the 'apologist'

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[227] Kwame Nkrumah, *Neo-colonialism – The last stage of Imperialism* (International Publishers New York 1965) 239 -250; Mark Langan, *Neo-Colonialism and the Poverty of 'Development' in Africa* (Palgrave Macmillan -Springer Cham 2018) ch 1.
[228] Lee and Paine (n 199).
[229] Jerry Ukaigwe, *ECOWAS Law* (Springer 2016) 1, 30.
[230] ibid.
[231] Oseni Taiwo Afisi, 'Neocolonialism' in eds Chase B Wrenn *Internet Encyclopaedia of Neocolonialism* (*IEP* 2025) para <https://iep.utm.edu/neocolon/> accessed 4 July 2025.
[232] Thomas Malnor, 'Neofunctionalism in Africa?' in eds Chase B Wrenn *Internet Encyclopaedia of Neofunctionalism* (*IEP* 2025) para 5 <https://iep.utm.edu/neocolon/#H5> accessed 10 July 2025.

claim concerning the positive influences of colonialism.[233] However, Obadina's positive argument claims that Africa is still considered a continent in economic and political crisis.[234] Another example is the creation of ECOWAS, which emerged from the quest for economic integration among West African states. Yet, more than 40 years after its establishment, ECOWAS has achieved only the free movement of persons within the sub-region. The member states remain among the poorest countries in the world, and many states in the sub-region lack access to electricity. This is one of the many impacts of colonialism in West Africa, irrespective of independence.

The English-speaking countries in current-day West Africa, namely Ghana, Gambia, Nigeria, and Sierra Leone, were colonised by the British,[235] except for Liberia, which, with English as its official language, was not colonised by the British.[236] The French-speaking countries in West Africa, including Benin, Burkina Faso, Côte d'Ivoire, Guinea, Mali, Niger, and Togo, were colonised by France, and finally, Cape Verde and Guinea-Bissau, whose official language is Portuguese, were colonised by Portugal.[237] The significant difference brought by colonisation was that it separated and restricted the people who had once lived together as a single community, despite internal conflicts. In the end, the people began agitating for freedom from their colonial masters, who, in the late 1950s, started granting independence to their respective colonies.[238]

Accordingly, the countries were granted the freedom sought by their educated elites at the time. Ghana was the first of the above countries to gain independence, and its independence was largely driven by Kwame Nkrumah, a Ghanaian and the first African nationalist educated in the UK.[239] Liberia, on the other hand, was not colonised by the British and therefore did not need to be

[233] ibid.
[234] Tunde Obadina, 'The Myth of Neocolonialism' in ed Chase B Wrenn *Internet Encyclopedia of Neofunctionalism* (IEP 2025) para 5 <*https://iep.utm.edu/neocolon/#H5*> accessed 10 July 2025.
[235] Ukaigwe (n 229) ch 1.
[236] Frank Sherman, *Liberia: The Land, Its People, History and Culture* (1st edn, New African Press Dar es Salaam Tanzania 2011) ch 1.
[237] Ukaigwe (n 229).
[238] ibid.
[239] Sherman (n 236).

freed.[240] Liberia became a republic in 1847, and some have argued that the Americans colonised Liberia.[241] This is because the American Colonisation Society, in its quest to look for a home for freed black slaves, combed the area known as West Africa today before settling them in today's Liberia.[242] Thus, the Society founded Liberia in 1822, while the continent was divided by Europeans in 1885.[243] Therefore, Liberia was not colonised by the British even though its official Language is English. The order in which the ECOWAS countries achieved their independence,[244] and their electricity access rates[245], are shown in the table below:

Table 1 shows ECOWAS member states' order of independence and electricity access rate.

No.	Country	Day	Month	Year	Access to Energy (2023) - %
1	Ghana	6	March	1957	89.5
2	Guinea	2	October	1958	51.1
3	Senegal	4	April	1960	74.2
4	Togo	27	April	1960	59.2
5	Benin	1	August	1960	57.0
6	Niger	3	August	1960	20.1
7	Burkina-Faso	5	August	1960	21.7
8	Cote d'Ivoire	7	August	1960	72.4
9	Mali	22	September	1960	53.5
10	Nigeria	1	October	1960	60.2
11	Sierra Leone	24	April	1961	35.5
12	Gambia	18	February	1965	66.9
13	Guinea Bissau	24	April	1973	40.5
14	Cabe Verde	5	July	1975	98.6
15	Liberia	N/A	N/A	N/A	32.5

[240] ibid.
[241] ibid.
[242] ibid.
[243] ibid.
[244] ECOWAS, 'Member States' <https://ecowas.int/?page_id=381> accessed 6 July 2025.
[245] World Bank, 'Access to Electricity (% of Population 2021)' <https://data.worldbank.org/indicator/EG.ELC.ACCS.ZS?locations=BJ-BF-CV-GM-CI-GH-GN-GW-LR-ML-NE-NG-SN-SL-TG> assessed 4 August 2025.

The above statistics on energy access in the ECOWAS member states are based on data from the World Bank, in collaboration with the International Energy Agency, the International Renewable Energy Agency, the United Nations and the World Health Organisation.[246] Thus, the table above, mentioned in the preceding chapters of this research, provides information on the electricity access rate of ECOWAS member states throughout this research. The above table, especially the access-to-energy rate, shows an apparent disparity in access to electricity across ECOWAS countries. Given that the countries are all ECOWAS members, this raises questions about the relevance of ECOWAS integration and suggests that ECOWAS lacks the relevant power to enact binding laws and policies to promote the development of alternative energy sources in the sub-region or increase access to electricity. For example, a review of the EU's energy access statistics shows that all EU member states have approximately 100 per cent access to electricity.[247] In Chapter Four, this research explores the reasons for the disparity in energy access among ECOWAS member states and how ECOWAS could address the current gap to increase energy access for its member states, regardless of each country's population, economy, and social development.

2.3 Formation of the ECOWAS

Countries form alliances to tackle economic, security, and environmental challenges. These partnerships are vital, as collective action is key for addressing shared issues in economics, security, politics, energy, and the environment. This may be especially crucial for developing countries that experience similar effects of colonialism, helping them confront poverty, inadequate access to electricity, and economic, social, and security challenges. In Africa, the African Union (AU) was established by the Organisation of African Unity (OAU). From its inception, the AU aimed to promote unity and solidarity among the countries on the African continent. The AU membership comprises fifty-five countries across the African Continent.[248] Within the AU, member states are divided into five geographical regions: Central, Eastern, Northern, Southern, and West Africa.[249]

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[246] ibid.

[247] World Bank, 'Access to Electricity' <https://data.worldbank.org/indicator/EG.ELC.ACCS.ZS?locations=BJ&name_desc=false> accessed 6 July 2022.

[248] African Union, 'About the African Union' <https://au.int/en/overview> accessed 5 April 2022.

[249] ibid.

Additionally, it is worth noting that, apart from the AU, these regions have established regional organisations, created primarily for economic reasons, including the free movement of goods, services, and people within their areas. For example, there is the East African Community (EAC), which comprises the countries in the Eastern region;[250] the Economic Community of Central African States (ECCAS);[251] the Southern African Development Community (SADC), which comprises Southern countries;[252] and the ECOWAS, which is the subject of this research, comprising fifteen countries in West Africa.[253]

The above brief information on the AU and other regional organisations in Africa is to illustrate and place the ECOWAS in the broader context of the AU; to also show that there are different regional organisations from the continent of Africa and the ECOWAS is to the West African sub-region, and that other regional bodies exist, which are all members of the AU like the ECOWAS. The preceding subsections demonstrate how ECOWAS emerged from the quest for a sub-regional organisation dedicated to the economic well-being of West African countries, including arguments that the shortcomings and lack of integration in the African Union's administration contributed to the establishment of regional organisations on the continent.[254]

2.3.1 Overview of the ECOWAS Integration

To begin with, it is worth noting that on 29 January 2025, Burkina Faso, Mali, and Niger officially withdrew from the ECOWAS Treaty.[255] However, the withdrawal of these countries does not change the aims and objectives of this research. Therefore, for the purpose of this research, the ECOWAS comprises fifteen (15) members. The ECOWAS is a regional organisation in West Africa, made up of

[250] East African Community, 'History of the EAC' <https://www.eac.int> accessed 5 April 2022.
[251] African Union, 'Economic Community of Central African States: History and Background' < https://au.int/en/recs/eccas> accessed 5 July 2025.
[252] Southern African Development Community, 'Overview of SADC' < https://www.sadc.int/about-sadc/overview/> accessed 5 July 2025.
[253] ECOWAS, 'Member States' <https://ecowas.int/member-states/> accessed 2 May 2025.
[254] Samuel O Oloruntoba, 'ECOWAS and Regional Integration in West Africa: from State to emerging Private Authority' (2016) 14 (7) HC 295, 303 <https://compass.onlinelibrary.wiley.com/doi/full/10.1111/hic3.12317> accessed 27 July 2022.
[255] ECOWAS, 'Treaty' < https://www.ecowas.int/publication/treaty/ > accessed 2 May 2025.

fifteen countries in member states: Benin, Burkina Faso, Cabo Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, and Togo. Eight of these countries speak French as the official language, five English and two Portuguese.[256] In 1975, fifteen countries signed the ECOWAS Treaty in Lagos, with Cape Verde joining in 1976.[257] The ECOWAS, as noted, was born out of the quest for economic integration for the sub-region, but, with global trends and the need to extend the integration beyond economic integration, and to harmonise ECOWAS policy among its member states, the 1975 Treaty was then reviewed in 1993 - the ECOWAS Revised Treaty 1993.[258]

Upon independence, the leaders in the West African sub-region sought a union to manage common issues, especially the free movement of goods, persons, and services within the West African sub-region. As a result, several efforts were made by the different leaders in the sub-region, notably the move by the then presidents of Côte d'Ivoire, Liberia, Guinea, and Sierra Leone.[259] This attempt failed because the then-president of Liberia proposed a common union of states or *unionism*, which the other leaders rejected, though it ultimately led to an agreement among the four countries noted above.[260] Another failed effort was that of the Ghanaian president, Nkrumah; this time, it was a proposal for political integration.[261] Nkrumah suggested a political union for the West African states; however, the proposal failed because Nigeria opposed it. It was argued that this failed because the sub-region needed economic integration at the time, which entails cooperation and coordination among West African states, potentially leading to a common sub-regional market.[262] The reasons for the earlier failures noted here are not considered in detail because they are not relevant to achieving the aims and objectives of this research; instead, they serve merely as informative.

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[256] ECOWAS, 'Member States' <https://ecowas.int/member-states/> accessed 27 July 2022.
[257] Arushi Gupta, 'Regional Integration in West Africa: The Evolution of ECOWAS' (2015) ORF 7, 11 <https://www.orfonline.org/public/uploads/posts/pdf/20230724152920.pdf> accessed 18 August 2025.
[258] ECOWAS 1975 Treaty (n 10); ECOWAS Treaty 1993 (n 11).
[259] Oloruntoba (n 254).
[260] Olatunde J B Ojo, 'Nigeria and the Formation of ECOWAS' (2009) 34 (4) IO 571, 604 <https://www.cambridge.org/core/journals/international-organization/article/nigeria-and-the-formation-of-ecowas/1585263BD676AC109585464FD3C898EB> accessed 15 July 2022.
[261] ibid.
[262] ibid.

Following Nigeria's strong opposition to Nkrumah's proposal on regional political integration, the then Head of State, General Yakubu Gowon of Nigeria, in agreement with the Togolese President, General Gnassingbe Eyadema, urged other leaders in the sub-region on the need for economic integration.[263] Consequently, General Gowon and General Eyadema of Togo presented another proposal outlining the necessity for economic integration. This proposal was circulated to twelve other leaders in the sub-region by 1973, and all accepted it. Further, a meeting was convened in the capital of Togo, which led to the drafting and studying of a treaty later scrutinised by the respective countries and examined by experts and jurists who met in Ghana. Upon confirmation by all those involved, the drafted treaty was signed on 28 May 1975 in Lagos by Fifteen (15) countries as the first Treaty of the Economic Community of West African States.[264]

The conflict among the founding fathers of ECOWAS stems from differences between them and their former colonial rulers. As previously discussed, the conflict among ECOWAS' founding fathers was deeply rooted in colonial legacies, particularly the divide between Francophone and Anglophone West African states. These tensions influenced the formation, structure, and evolution of ECOWAS, illustrating how colonialism fractured regional unity by instilling enduring political, economic, and ideological divisions. For instance, rival visions for regional integration between the Francophone Bloc, led by Côte d'Ivoire's Félix Houphouët-Boigny and supported by France, favoured economic cooperation within the Conseil de l'Entente and the West African Economic and Monetary Union (UEMOA), promoting gradualist and France-aligned integration.[265] On the other side, the Anglophone Bloc, led by Nigeria under General Yakubu Gowon, envisioned a pan-West African project independent of former colonial powers, emphasising self-reliance and geopolitical leadership.[266]

Consequently, these differences were not solely technical—they fostered distinct regional worldviews and post-independence alignments, setting the stage for distrust and strategic rivalry. The differences originated from the colonial roots

[263] Ukaigwe (n 229).
[264] ECOWAS 1975 Treaty (n 10).
[265] Adekeye Adebajo, *Building Peace in West Africa: Liberia, Sierra Leone and Guinea-Bissau* (Lynne Rienner Publishers 2002) 30, 32.
[266] ibid.

of division established when West Africa was divided by European colonial powers—primarily Britain and France—who imposed different legal systems (common law versus civil law), languages (English versus French), administrative and political structures (decentralised versus centralised rule), and economic dependencies. For example, Britain promoted the export of cash crops, while France maintained tighter economic control, including through the CFA franc.[267]

Inherently, France's neo-colonial influence grew through the post-independence policy of Françafrique, maintaining political and economic control over its former colonies,[268] thereby creating structural and ideological resistance to Nigerian-led initiatives.[269] France supported competing regional blocs that excluded Nigeria, reinforcing regional fragmentation.[270] For instance, prior to ECOWAS, the West African Economic Community (WAEC) was established by Francophone countries to counterbalance Nigeria's influence.[271] Moreover, varying political ideologies, such as socialism and capitalism, as well as international disparities, further delayed the establishment of ECOWAS and the subsequent re-evaluation of the ECOWAS Treaty in 1993.[272] Ultimately, until traditional economic ties that connect West Africans shift to a unified theme, achieving ECOWAS integration will continue to be a challenge, particularly due to the ongoing indirect effects of colonial rule on the colonised nations.

[267] Philip Roessler, Yannick I Pengl, Robert Marty, Kyle Sorlie Titlow and Nicolas van de Walle, 'The cash crop revolution, colonialism and economic reorganization in Africa' (2022) 158 WB <https://www.sciencedirect.com/science/article/pii/S0305750X22001243#:~:text=The%20remaining%20share%20includes%20different%20minerals%20and,(14.7%25)%2C%20groundnuts%20(14%25)%2C%20and%20oil%20palm%20(9.9%25). > accessed 10 July 2025.

[268] Ian Taylor, 'France à fric: the CFA zone in Africa and neocolonialism' (2019) 40 (5) TWQ <https://www.tandfonline.com/doi/full/10.1080/01436597.2019.1585183?scroll=top&needAccess=true#d1e1333 > accessed 10 July 2025.

[269] Yusuf Dangura, 'Why France Can't Be Nigeria's Strategic Partner (VIII)' *Daily Trust* (Nigeria, 25 February 2025) < https://dailytrust.com/why-france-cant-be-nigerias-strategic-partner-vii/ > accessed 10 July 2025.

[270] ibid.

[271] András István Türke, 'The ECOWAS (Economic Community of West African States) in Focus of West African Integration Efforts' (2022) 2(2) JCEEAS < https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://jceeas.bdi.uni-obuda.hu/index.php/jceeas/article/download/65/172&ved=2ahUKEwiU19zMkrKOAxVwSEEAHf0eGCMQFnoECB4QAQ&usg=AOvVaw29nfe9FdzHvE2iHGjvZcf_ > accessed 10 July 2025.

[272] ibid.

2.4 Review of ECOWAS Legal and Institutional Framework

The functions and sources of ECOWAS law are enshrined in the Treaty establishing the ECOWAS – ECOWAS Revised Treaty 1993. A chairman, a member of the Heads of Authority of State and Government, heads the ECOWAS.[273] This body is primarily known as the Authority in the Revised Treaty.[274] The Authority is the leading institution of the ECOWAS, the only institution empowered by the Treaty to make laws, amend the ECOWAS Treaty, make appointments, and empower other ECOWAS institutions to promote ECOWAS integration and the smooth functioning of the ECOWAS.[275] The Authority is the only institution of the ECOWAS that has the power to enact laws, and these laws are automatically binding on member states, without further scrutiny.[276] The ECOWAS has other institutions, but the decisions of these institutions do not automatically bind the member states, unless the Authority has delegated the power under which the institution is acting.[277] These institutions include the Council of Ministers, the Commission, and the Community Parliament, while the ECOWAS primary legislation is the Revised Treaty of the Community. Other sources of ECOWAS law include Protocols, Supplementary Acts, Decisions, Directives, Regulations, Opinions, Recommendations, and International laws.[278]

Additionally, the Authority is empowered by the Treaty to create further specialised institutions to support the above institutions in carrying out the business of the ECOWAS. These specialised institutions and agencies are detailed in Article 6(1)(i) of the Revised Treaty. In the following subsections of this section, this research identifies ECOWAS sources of law and key features of the central ECOWAS institutions, thereby analysing their constitutional and legal arrangements and relating them to potential influences of colonialism on the formation and function of ECOWAS. This enables the researcher to determine ECOWAS' competencies and identify which ECOWAS institution(s) have the authority to create binding laws and policies that can promote the development

[273] ECOWAS Treaty 1993 (n 11) arts 1, 8 (2).
[274] ibid arts 1, 7.
[275] ibid.
[276] ibid.
[277] ibid.
[278] Ukaigwe (n 229) ch 2.

of renewable energy in the sub-region, while facilitating energy transition and sustainable development.

2.4.1 ECOWAS Sources of Law

This section explores the sources of law within ECOWAS, the binding nature of its laws, and the powers of its institutions at the national and regional levels to enact binding legislation. Accordingly, the sources of ECOWAS law include the treaty establishing ECOWAS, protocols, conventions, supplementary acts, decisions, regulations, directives, and relevant international laws.[279] Article 88 of the Revised Treaty acknowledges that ECOWAS is an international organisation, thus bound by international law. Article 38(1)(a) of the Statutes of the International Court of Justice identifies the sources of international law, including international customs and general principles of law recognised by civilised nations. The ECOWAS institutions also act through Opinions and Recommendations, which some have argued are part of the ECOWAS sources of law.[280] However, the researcher finds that Opinions and Recommendations within the ECOWAS legal regime serve as a medium of communication between the ECOWAS institutions. In this section, the researcher focuses solely on the internal sources of ECOWAS law (excluding international law) and will now discuss these sources in turn.

2.4.1.1 Treaty

Article 2(a) of the Vienna Convention on the Law of Treaties defines a treaty as an international agreement between states, in a written form and governed by international law.[281] This definition confirms that the above-noted countries that signed the ECOWAS Treaty entered into a contract and are thus bound by the Treaty's terms, as long as they remain signatories to the Treaty. The 1975 and 1993 (Revised) treaties were signed by the Presidents, Prime Ministers, and Heads of State of the 15 contracting countries. However, Article 92(3) of the 1993 Treaty states that the Conventions, Protocols, Decisions, and Resolutions of the 1975 ECOWAS Treaty remain valid to the extent that they are compatible with the Revised Treaty. This implies that the Community Court can rely on the 1975

[279] ibid.
[280] Ukaigwe (n 229) ch 3.
[281] Vienna Convention on the Law of Treaties (1969).

Treaty, which is consistent with the 1993 Treaty. Meanwhile, Article 92(2) notes that, if the 1993 Treaty does not address the determination of rights and obligations of contracting countries, recourse should be made to the 1969 Vienna Convention on the Law of Treaties.[282]

The ECOWAS, as stated in its Treaty, clearly designates the 1993 Treaty as the primary source of ECOWAS law, and the signatory countries are bound by it.[283] The Community Court has also held in several cases that the Treaty, as a primary source of law, is not in doubt.[284] The ECOWAS Treaty of 1993 comprises 93 Articles outlining the rights and obligations of members, the establishment, and the roles of various institutions of the ECOWAS. Moving forward, Article 1 of the 1993 Treaty designates ECOWAS as the 'community'; consequently, the term 'community' is utilised interchangeably throughout this research with the abbreviation 'ECOWAS,' both denoting the Economic Community of West African States. However, given the provisions of the ECOWAS Treaty and its significance in international law, it raises the question of why member states fail to enforce the Treaty's provisions or recognise the ECOWAS Court's rulings as supreme over national laws, despite having consented to and ratified the ECOWAS Treaty. This research further explores the issue of ECOWAS member states failing to implement the treaty's provisions, as this would affect the realisation and enforcement of renewable energy policies and laws within the organisation.[285]

This research further analyses the issue of ECOWAS member states failing to implement the provisions of the ECOWAS Treaty, which would affect the enactment and enforcement of ECOWAS renewable energy laws and policies. Consequently, it would impact the progress and harmonisation of the ECOWAS legislations and policies, thereby hindering ECOWAS' ability to work towards the collective development of its member states and the advancement of its integration goals. For instance, Article 93 states that,

[282] ECOWAS Treaty 1993 (n 11) art 92.
[283] ibid preamble.
[284] *Prof. Essien v Republic of the Gambia and University of the Gambia* 2007 para 95.
[285] Solomon Odeniyi, 'Lagos CJ seeks enforcement of ECOWAS court decisions' *PUNCH* (Lagos, 2 May 2025) <https://punchng.com/lagos-cj-seeks-enforcement-of-ecowas-court-judgments/> accessed 3 May 2025.

> the Treaty and all instruments of ratification shall be deposited with the Executive Secretariat which shall transmit certified true copies of this Treaty to all Member States and notify them of the dates of deposit of the instruments of ratification and shall register this Treaty with the Organisation of African Unity, the United Nations Organisation and such other organisations as the Council may determine.[286]

Consequently, the member states are bound by Article 102 of the United Nations Charter, as the ECOWAS Treaty has been registered with the United Nations Secretariat under Article 102 of the Charter.[287] Accordingly, the member states are bound by the conventional rules of international law, including the ECOWAS Treaty. Thus, it is argued that the ECOWAS Treaty should take precedence over domestic laws irrespective of domestic arrangements.

2.4.1.2 Protocols

The United Nations defines a Protocol as a less formal agreement than a treaty or convention.[288] The ECOWAS, on its part, in Article 1 of the 1993 Treaty, clearly states that a Protocol is an 'instrument of implementation of the treaty' and that a protocol has the same legal standing as the Treaty in the ECOWAS legal regime. Accordingly, it is argued that the 2003 Energy Protocol of ECOWAS is binding on member states to the same extent as the 1993 Treaty. Since a protocol has the same legal force as a treaty in the ECOWAS legal regime, it can be inferred that a Community Protocol would be affirmed by the Presidents, Prime Ministers, and Heads of Government of the contracting states for it to be binding, just like the ECOWAS Treaty.

Meanwhile, while writing this research, the researcher cannot state whether the 2003 energy protocol holds the same force as the 1993 Treaty. This uncertainty arises from the previously mentioned disparity in access to energy rates among the member states. This raises questions about the impact of the 2003 Energy Protocol and the laws and policies of the member states. The researcher revisits this assertion in Chapter Four of this research. Additionally, given the wording of

[286] ECOWAS Treaty 1993 (n 11) art 93.
[287] United Nations Charter 1945.
[288]United Nations Treaty Collection, 'Definitions' <https://treaties.un.org/Pages/overview.aspx?path=overview/definition/page1_en.xml#protocols> accessed 31 July 2022.

Article 1 of the Revised Treaty, a protocol has been recognised as a source of law within the ECOWAS legal regime. For instance, in Femi Falana & Anor v Republic of Benin & 14 Ors.,[289] the Community Court relied on Supplementary Protocol A/SP.1/01/05 to affirm its jurisdiction. By referring to the Protocol as mentioned earlier, the court further implies that it recognises the ECOWAS Protocol as having the same legal force as its Treaty.

2.4.1.3 Conventions

The ECOWAS Treaty does not explicitly define a convention in its legal regime. However, in another document, the ECOWAS states that, before the introduction of Community Acts, the obligations of member states were mainly contained in Protocols and Conventions, which were subject to rigorous parliamentary ratification.[290] Scholars also argue that, without an explicit definition of a convention in the ECOWAS Treaty, one can assume that a convention has the same legal status as the ECOWAS Treaty and Protocol within the ECOWAS legal regime.[291] Accordingly, a convention is a source of ECOWAS law because ECOWAS Article 92(3) of the 1993 Treaty states that all conventions since the 1975 Treaty are valid and remain in force to the extent that they are compatible with the 1993 Treaty. This indicates that a convention is a source of ECOWAS law.

2.4.1.4 Supplementary Acts

In the ECOWAS legal regime, a Supplementary Act serves as a source of law and is also referred to as a Community Act.[292] Before the introduction of Community Acts, the sources of law were the Treaty establishing the ECOWAS, Protocols, and Conventions.[293] Amending a treaty, protocol, or convention usually involves a rigorous parliamentary ratification process and takes longer to enter into force. Thus, Supplementary Acts were introduced to address amendments to the Authority's treaties, protocols, and conventions, which are not subject to parliamentary ratification but require only the Authority's consensus to be binding

[289] *Femi Falana & Anor v Republic of Benin & 14 Ors.* (2010) para 113.
[290] ECOWAS Community Acts (n 125).
[291] Ugaigwe (n 229) 36, 38.
[292] ECOWAS Community Acts (n 125).
[293] ibid.

on the Member States and ECOWAS institutions.[294] As a result, the Authority can create new laws or amend existing laws through Supplementary Acts; for example, Article 9 of the Revised Treaty was amended by Article 2(2) of Supplementary Protocol A/SP.1/06/06.

2.4.1.5 Decisions

In the ECOWAS legal regime, Decisions are made by the Authority of Heads of State and Government, as provided for in Article 9 of the 1993 Revised Treaty. The Authority is the only institution of the ECOWAS that can act via Decisions, and the Authority's powers to act by Decisions and the circumstances under which the Authority can act by Decisions are outlined in Article 9 of the 1993 Treaty. However, a decision of the authority is adopted only by consensus before it becomes binding on the member states and the community institutions. A Decision comes into force Sixty days after the Decision is published in the Community's Official Journal, including the National Journals of the member states, for sixty days.[295] In essence, Decisions of the Authority are a source of law that can be relied upon in court, and Decisions are immediately applicable and binding on the community members and institutions after being published for the duration noted above.

2.4.1.6 Regulations

In the ECOWAS legal regime, a regulation is a source of law, and the Council makes regulations for Ministers.[296] The Authority must approve a regulation by the Council of Ministers before it becomes binding on the ECOWAS institutions.[297] Meanwhile, a Regulation once approved by the Authority is immediately binding on the ECOWAS institutions. Still, the Regulation can only bind the member states and their institutions if, in addition to being approved by the Authority, it is published in the Community Official Journal and the national journals of the member states for a period of sixty days.[298] However, Article 12(3) provides that if the Council of Ministers' Regulation results from delegated powers by the

[294] ibid.
[295] ECOWAS Treaty 1993 (n 11) art 9(6).
[296] ibid art 12.
[297] ibid.
[298] ibid.

Authority, such a Regulation comes into effect and is immediately binding on member states and ECOWAS institutions. In this instance, the Council does not require approval from the Authority, as it is acting within its delegated powers.

2.4.1.7 Directives

Article 7(3)(a) of the Revised Treaty empowers the Authority to give Directives to harmonise and coordinate the activities of the ECOWAS and its member states.[299] Article 10(c) provides that the Council of Ministers can issue Directives on powers delegated to it by the Authority (Heads of State and Government) concerning the harmonisation and coordination of ECOWAS economic integration policies.[300] Therefore, directives are a source of law in the ECOWAS legal regime, and only the authority and, in permitted cases, the Council of Ministers may issue directives binding on member states and ECOWAS institutions. Primarily, from the wording of the Treaty establishing the various sources of laws, one may decipher that irrespective of whether it is a regulation or a directive, once the Authority endorses the law it becomes binding on the Community and its institutions, and where the regulation or directive is not supported by the Authority, it only binds the institution making the directive or regulation, and the agencies and institutions under that institution.

2.4.1.8 Opinions and Recommendations

Opinions and Recommendations have been considered sources of ECOWAS laws because they are noted as Community Acts by the ECOWAS.[301] This position is debatable because Opinions and Recommendations, upon a close reading of the Revised Treaty, can be law and binding on the member states of the ECOWAS institutions only when the Opinion or Recommendation is accepted and adopted as a Decision or Regulation. For example, Article 7(h) of the Revised Treaty provides that the Authority may, where necessary, consult the Community Court of Justice for advice and opinion on legal matters, which the Authority may adopt as law.[302] Likewise, Article 10(h) provides that the Council of Ministers may consult the Court of Justice of the European Union for advice and opinion on legal

[299] ECOWAS Treaty 1993 (n 11).
[300] ibid.
[301] Ukaigwe (n 229) 41, 45.
[302] ECOWAS Treaty 1993 (n 11).

matters.[303] As noted above, the ECOWAS Parliament also give Opinions to the Community institutions, including the Authority.

Regarding recommendations, Article 10(3)(a) provides that the Council of Ministers may recommend to the Authority of Heads of State all actions necessary to achieve the objectives of the ECOWAS.[304] The Council is also empowered by the Revised Treaty to recommend the appointment of External Ministers to the Authority.[305] Also, the Executive Secretary of ECOWAS is appointed by the Authority upon the Council's recommendation. Essentially, in the ECOWAS legal regime, as provided for in the Revised Treaty, the Court of Justice usually issues an Opinion on legal issues upon request to either the Authority or the Council. While the Council usually makes recommendations to the Authority regarding appointments or Community matters for the Authority to make decisions. Finally, as noted above, the ECOWAS Parliament also makes recommendations to the Authority, which can also be adopted as law by the Authority.

2.4.2 Evaluation of ECOWAS' Central Institutions

This section evaluates the leading institutions of ECOWAS to determine their institutional competence. This enables the researcher to assess the renewable energy laws and policies of ECOWAS in Chapters four and five. Specifically, it examines the powers of institutions to create binding laws, including those responsible for enforcing, implementing, and sanctioning ECOWAS laws and policies in member states. Accordingly, the institutions discussed in this section include the Heads of State and Government (Authority), the Council of Ministers, the Commission, the Community Parliament, and the Community Court of Justice.

2.4.2.1 Heads of State and Government

The Revised Treaty and the erstwhile ECOWAS Treaty of 1975 established the Authority of Heads of State and Government (the Authority).[306] The Authority is described as the 'Supreme' institution of the ECOWAS.[307] The Authority is

[303] ibid.
[304] ibid.
[305] ECOWAS Treaty 1993 (n 11) art 10(d).
[306] ibid art 7(1).
[307] Ukaigwe (n 229) ch 3.

composed of the Heads of State and Government of member states, and the Revised Treaty empowers the Authority to direct and control all activities of the ECOWAS, ensuring the ECOWAS' progress and development, as well as the realisation of the ECOWAS Treaty's aims and objectives.[308] Under Article 8 of the Revised Treaty, the Authority holds two meetings yearly: an Ordinary Session meeting, at least once a year, and an Extraordinary Session, which the chairman of the Authority usually convenes.[309] Meanwhile, a member state can also call for an extraordinary meeting, which can only be convened with the consensus of the member states or with the support of a simple majority of the member states.[310] Furthermore, the Authority is headed by a chairman, who is elected by the Authority, and the chairman's position is held for one year by a member state.[311]

The roles of the Authority are detailed in Article 7(3) of the Revised Treaty.[312] They include the determination of general Community policy and key guidelines, giving directives, the harmonisation of economic, technical, scientific, social, and cultural policies of member states; to appointing the president of the ECOWAS Commission in line with Article 18 of the Revised Treaty, and to refer where it deems necessary any issue to the Community Court where a member state or institution of the Community has failed to honour any of its Treaty obligations.[313] As provided by the Revised Treaty, the key legal instrument the Authority uses is a Decision; thus, the Authority adopts a Decision by unanimity, consensus, or a two-thirds majority of the member states.[314] The Authority is the only institution of the ECOWAS that can amend the ECOWAS Treaty, through a Supplementary Act or a Protocol, which becomes binding on the member states and institutions forthwith.[315]

In essence, the Authority is the main law- and decision-making institution of the ECOWAS. As shown above, the Revised Treaty grants the Authority the sole power to enact laws for the Community that are automatically binding on both the

[308] ECOWAS Treaty 1993 (n 11) art 7(2).
[309] ibid.
[310] ibid art 8.
[311] ibid.
[312] ibid.
[313] ECOWAS Treaty 1993 (n 11) art 7(3)(g).
[314] ibid art 9(2).
[315] ECOWAS Treaty 1993 (n 11).

member states and the Community institutions. This researcher argues that the Treaty's establishment and empowerment of the Authority present it as a supranational institution. This is because a supranational organisation or institution can act on behalf of states or their members who have transferred some of their sovereignty to the organisation.[316] To this end, in Chapter Three of this research, the researcher further examines ECOWAS integration, alongside other regional integration schemes such as the EU, as well as other agreements between countries that aim to achieve a common goal but fall short of the ideals of regional integration as propounded by Haas. This is to determine, if any, the limits to the Authority's powers, as well as whether the Authority is indeed the ECOWAS version of a supranational institution. Furthermore, the examination is relevant as it raises the question of why member states are not enforcing ECOWAS court decisions,[317] if the court is established to apply, interpret, and implement legislation enacted by the Authority, particularly since the Treaty establishing ECOWAS empowers only the Authority to enact laws that automatically bind member states and institutions.

2.4.2.2 The Council of Ministers

The Revised Treaty, Article 10(1), establishes the Council of Ministers (the Council), which consists of the Ministers responsible for ECOWAS affairs and the Ministers of each member state.[318] Implied in Article 10(2) is that, where a member state does not have a representative at the Council, the foreign affairs minister of that state would be sent to the Community Council to represent the state.[319] A chairman heads the Council.[320] The Treaty states that the office of the Chairman of the Council shall be held by the Minister in charge of ECOWAS affairs of the member state elected as the chairman of the Authority.[321] This means, for

[316] Mireille Hildebrandt, *Law for Computer Science and Other Folk* (Oxford Scholarship 2020) ch 4.
[317] ES Nwauche, 'Enforcing ECOWAS law in West African Courts' (2011) 55 (2) JAL 181, 202 <https://www.jstor.org/stable/41709860?saml_data=eyJzYW1sVG9rZW4iOiJmYzFkMWU5YS1kN2Y0LTQ4ODMtOGZjYi0wNzkyZTc0MGEzNmMiLCJpbnN0aXR1dGlvbklkcyI6WyI0NmEwOWQ4Yi0wZmY2LTQ3OTEtOTA3MS0zZWViNWY5ZmFhNTciXX0#metadata_info_tab_contents> accessed 31 July 2022.
[318] ECOWAS Treaty 1993 (n 11) art 10(1).
[319] ibid.
[320] ibid art 11(1).
[321] ibid art 11(2).

example, that if the current chairman of the Authority is the President of Nigeria, the office of the Council Chairman would be held by Nigeria's Minister of ECOWAS Affairs. The Council, under Article 11(1), is required to have two meetings annually.[322] Thus, the Council holds ordinary and extraordinary sessions at least twice a year. In line with the Revised Treaty, one of the ordinary session meetings must precede the Authority's Ordinary session, where the chairman of the Council prepares recommendations. Also, a member can request an extraordinary meeting, provided that most member states support the request.[323]

The Council acts by regulation as provided by the Revised Treaty, and the regulation adopted by the Council is by unanimity, consensus, or a two-thirds majority of member states.[324] The voting system to be adopted by the Council is based on a protocol in line with the provisions of Article 9(2) and (3) of the 1993 Revised Treaty. Meanwhile, until the protocol is established, the Council adopts its regulations by consensus.[325] A regulation adopted by the Council binds all institutions under the authority of the Council of Ministers, not the member states. However, if the Authority approves the Council's regulation, it will be binding on the member states. This may not be entirely clear to some readers, especially those unfamiliar with the ECOWAS legal framework. Essentially, it implies that, regardless of whether the Council acts by regulation, which is meant to be binding only on institutions under the Council's control, the Authority also has the power to make regulations through the Council that are automatically binding on the member states. However, the Authority must deem the regulation necessary and relevant to the progress and realisation of the ECOWAS aims and objectives. Therefore, all rules arising from the Authority's delegation to the Council bind all and do not require approval by the Authority. This, as argued in Chapter Four, appears to be the issue with the creation of the ECOWAS Centre for Renewable Energy and Energy Efficiency and the West African Power Pool regarding their binding nature.

[322] ECOWAS Treaty 1993 (n 11).
[323] ibid.
[324] ibid art 12.
[325] ibid.

Primarily, the Council is responsible for the development and proper functioning of the Community; the Council's roles are further detailed in Article 10(3) of the 1993 Revised Treaty. This includes making recommendations to the Authority on issues to promote the goals of the Community; appointment of all statutory officials aside from the president of the Commission; upon delegation of powers from the Authority issuing directives on the coordination and harmonisation of economic integration strategies;[326] endorsing Community programmes and budgets for its institutions; and where necessary to ask the Community Court for advice on legal issues.

2.4.2.3 The Commission

In January 2007, the ECOWAS Executive Secretariat was restructured into a Commission.[327] Accordingly, Articles 17, 18, 19, and 22(1) of the 1993 Revised Treaty establishing the Executive Secretariat, its roles and functions, have been amended by a Supplementary Protocol to establish an ECOWAS Commission.[328] Article 1 of the Supplementary Protocol states that wherever the phrases 'Executive Secretariat', 'Executive Secretary', and 'Deputy Executive Secretary' are used in the Revised Treaty, they should be replaced with the phrases 'Commission of the Economic Community of West African States', 'President of the ECOWAS Commission', and 'Commissioners' respectively.[329] This restructuring involved adopting a new legal regime for Community Acts, including Supplementary Acts, Regulations, Decisions, Directives, Recommendations, and Opinions,[330] of which have already been discussed above.

In accordance with the above Supplementary Protocol, the Commission is headed by a President appointed by the Authority for a term of four years and may only be removed from office by their own volition or upon the recommendation of the Council.[331] The president, in carrying out the functions of the office, is supported by a vice president, commissioners, and other staff to ensure the appropriate

[326] ibid art 12(3).
[327] ECOWAS Commission, 'About the Commission' <https://ecowas.int/?page_id=165> accessed 26 July 2022.
[328] ECOWAS Supplementary Protocol A/SP.1/06/06, art 2.
[329] ibid.
[330] ECOWAS Community Acts (n 125).
[331] ibid.

functioning of the Community and its departments.[332] Under Article 6 of the Revised Treaty, there are Specialised Technical Commissions, as outlined in Article 22. These Commissions, in practice, are departments of the ECOWAS Commission.[333] In line with Article 12(1), the Commission has created Specialised Technical Commissions detailed in the Treaty – these can be restructured or added to whenever the Authority deems it necessary.[334]

Also, under ECOWAS law, the Commission is accountable only to the Community and therefore does not take instructions from any member state, government, or external international authority.[335] Essentially, the Commission comprises the President, Vice President, and thirteen other Commissioners, all of whom are experienced professionals.[336] It remains unclear whether these thirteen Commissioners were appointed from member states or selected for their expertise, as ECOWAS refers to them as 'experienced professionals.' Essentially, it is expected that, in line with democratic principles, these individuals would represent member states to ensure accountability and build trust in the institution. Conversely, one could argue that their selection was based on expertise, given that there were only thirteen commissioners, whereas the ECOWAS membership comprised at least fifteen when the Commission was established.

Primarily, the Commission bears the responsibility of implementing the ECOWAS vision, mission, and objectives.[337] Accordingly, the functions and duties of the Commission are enshrined in Articles 19(3) and 23 of the 1993 Revised Treaty, and they include ensuring the implementation of the provisions of the Revised Treaty; harmonisation and coordination of Community programmes and projects; submitting reports on Community activities to all meetings of the Authority and Council; and to make recommendations to the Authority and Council, that can be adopted as Community Acts. Thus, the President executes the Authority's

[332] Supplementary Protocol (n 328).
[333] ECOWAS Commission (n 327)
[334] ECOWAS Treaty 1993 (n 11) art 22(2).
[335] ibid art 20(1).
[336] ECOWAS, 'Commission: governance structure' <https://www.ecowas.int/governance-structure/ > accessed 3 May 2025.
[337] ECOWAS Commission, 'the Commission' < https://www.ecowas.int/institutions/the-commission/# > accessed 3 May 2025.

decisions and implements them through the Commission's departments, including the Council's regulation to promote community development programmes. The president also convenes, as necessary, meetings of representatives of member states' high institutions to examine sectional issues that advance the Community's goals.[338]

2.4.2.4 The Community Parliament

The Community Parliament is established by Article 13 of the Revised Treaty, while its functions, composition, and competencies are detailed in a Protocol.[339] The Parliament is headed by a Speaker, who is elected among the Representatives to head the Parliament, direct, and manage the business of the Parliament and its organs.[340] The Parliament comprises 120 Representatives, with at least five representatives from each member state, and is elected for a term of five years.[341] The Authority determines the parliament seat[342], and the first legislature of the Parliament, which the chairman of the Authority usually convenes upon the recommendation of the President of the Commission.[343] The parliament comprises a Speaker, Deputy Speakers, Treasurers, and Parliamentary Secretaries who work together to make recommendations on the issues identified below, including providing opinions to Community institutions on the same matters. Article 6 of the above-noted Protocol provides details on the role of the Parliament, including the issues on which any institution of the community can contact the Parliament, and the Parliament's ability to give its opinions or make recommendations on the matters referred to it.

[338] ECOWAS Treaty 1993 (n 11) art 19(3).
[339] ECOWAS Protocol A/P.2/8/94 <http://ecowas.akomantoso.com/_lang/fr/doc/_iri/akn/ecowas/statement/protocol/1994-08-06/A_P2_8_94/eng@/!main> accessed 27 July 2022.
[340] ibid.
[341] ibid.
[342] ibid.
[343] ibid.

2.4.2.5 The Community Court of Justice

The 1975 Treaty established a Tribunal of the Community,[344] while the Revised Treaty established a Community Court of Justice[345] and an Arbitration Tribunal[346] (yet to be established, but currently accessible through the Community Court)[347] for the Community. However, the Court and the Arbitration Tribunal's functions, competencies, and jurisdiction are outlined in a Supplementary Protocol.[348] In line with the Protocol, the Community Court is independent and thus carries out its functions independently.[349] The Court comprises seven independent judges from member states, who are highly esteemed in their national judiciaries, possess high moral standards in their respective countries, and are knowledgeable in international law, particularly regional law.[350] In line with the Protocol, it is now mandatory for the candidates to be experts in community or regional law. The Authority appoints judges to office for a term of five years, subject to renewal, and the court is headed by a president elected by the members of the court.[351]

- **Competence and Role of the Community Court of Justice**

The Court, under Article 9 of the Protocol on the Court as amended by Supplementary Protocol A/SP.1/01/05, provides for the jurisdiction of the court to adjudicate any dispute concerning the interpretation and application of the ECOWAS Treaty, protocols, conventions, and Community Acts; determines the legality of regulations, directives, decisions, and any other Community legal measures instrument; the failure of a member state to honour its obligations under the Treaty, protocol, convention, directive, regulations, or decisions of the ECOWAS; and decides on issues concerning Community officials, actions for damages against the Community institutions.[352]

Further, the court is open to member states, Community institutions, individuals, corporate bodies, and staff of any Community institution. Also, cases at national

[344] ECOWAS Treaty 1975 (n 10) art 11.
[345] ECOWAS Treaty 1993 (n 11) art 15.
[346] ibid art 16.
[347] ECOWAS Supplementary Protocol A/SP.1/01/05, art 3(5).
[348] ibid art 3.
[349] ECOWAS Treaty 1993 (n 11) art 15.
[350] ECOWAS Supplementary Protocol (n 347) art 2.
[351] ECOWAS Treaty 1993 (n 11) art 7(1).
[352] ECOWS Supplementary Protocol (n 347) art 9.

courts can refer to the Community Court on the interpretation of the provision of the Treaty, protocol, or Community Acts – the national court can, of its own volition, prefer to refer a case or, upon an application by any of the parties to the action requesting the case to be referred to the Community Court.[353] Finally, the Community institutions, including the Authority, Council, and Commission, may consult the Court for a legal opinion on issues relating to the Revised Treaty.[354]

- **Community Court's Judgment / Enforcement**

One major hurdle to the Community Court is the lack of enforcement of its decisions.[355] Over the years, it has been noted that not all member states enforce the Community Court's decisions; enforcement is voluntary and depends on the member state's discretion.[356] For example, only 30 per cent of the Court's decisions are thoroughly enforced, as asserted by Nana Akufo-Addo, a former chairman of the Authority.[357]

Essentially, following Article 59 of the Community Court's Rules of Court, the judgment of the Court is binding from the day of delivery, which is also confirmed in Article 15(4) of the revised treaty.[358] However, one can argue that this is not the case in practice, as member states have refused to enforce the Court's decision.[359] For example, as provided by the Protocol, to implement the Court's decision with financial implications, the registrar of the Court will issue a writ of execution to the member state, which the member state is to enforce in accordance with its court procedure. This implies that in most cases, the Community Court's decision enforcement will be based on the member state's discretion, which is not applaudable, as national courts may be reluctant to uphold the regional court's decision. For example, Alogba, the Chief Judge of Lagos State, while lamenting the lack of enforcement of the ECOWAS court decision, expressed

[353] ECOWAS Treaty 1993 (n 11) art 4.
[354] ibid.
[355] Odeniyi (n 285).
[356] Ukaigwe (n 229) 70, 100.
[357] Nana Akufo-Addo, 'Chairman of Authority of ECOWAS Urges the Member States to Enforce Decisions of the Court for Regional Court' (*Community Court of Justice*, 21 March 2022) <http://www.courtecowas.org/2022/03/22/chairman-of-authority-of-ecowas-urges-member-states-to-enforce-decisions-of-regional-court/> accessed 27 July 2025.
[358] ECOWAS Treaty 1993 (n 11) art 15(4).
[359] Odeniyi (n 285).

concerns that sovereign nations fail to enforce regional court rulings, attributing this to political diversity and inadequate mechanisms as significant obstacles.[360]

Furthermore, it is argued that the lack of enforcement of the Court's decision would undermine the confidence of foreign investors in the sub-region and relatively smaller countries in the bloc, who may seek recourse from the courts. Moreover, it would hinder the implementation of renewable energy laws and policies across member states, as the court cannot sanction countries that have failed to meet regional targets under their renewable energy policies. For example, in 2012, it was reported that only 3 out of 10 Community Court decisions were fully complied with, and most of the decisions that were not adhered to involved member states.[361] Additionally, the lack of enforcement of the Court's decision raises questions about ECOWAS' integration, including the power dynamics within the organisation. For instance, Adigun contends that Nigeria does not enforce the ECOWAS Court's decisions because domestic courts in Nigeria do not regard the ECOWAS Court as an international court and therefore do not treat its decisions as foreign judgments.[362]

Nevertheless, it is essential to acknowledge that ECOWAS is actively working to guarantee the enforcement of the Court's ruling. For instance, the Court's president, Ricardo Cláudio Monteiro Gonçalves, during his keynote address at the 2025 inaugural meeting of National Authorities responsible for enforcing ECOWAS judgments, underscored the binding nature of the Court's decisions and emphasised the obligation of member states to ensure their implementation.[363] This is because the enforcement of judgments plays a vital role in upholding the

[360] Kazeem Alogba, 'Lagos chief judge Alogba decries difficulty in enforcing ECOWAS judgements' *Daily Post* (Lagos, 1 May 2025) < https://dailypost.ng/2025/05/01/lagos-chief-judge-alogba-decries-difficulty-in-enforcing-ecowas-judgements/ >accessed 3 May 2025.
[361] ibid.
[362] Muyiwa Adigun, 'Enforcing ECOWAS Judgments in Nigeria through the Common Law Rule on Enforcement of Foreign Judgments' (2019) 15 (1) JPIL 130, 61 <https://www.tandfonline.com/doi/full/10.1080/17441048.2019.1599770?journalCode=rpil20 > accessed 31 July 2022.
[363] ECOWAS Community Court of Justice, 'Inaugural Meeting of Competent National Authorities Responsible for the enforcement of ECOWAS Court Judgments Begins in Lagos, Nigeria' (*Community Court of Justice*, 24 June 2025) <https://courtecowas.org/pending-cases-and-decisions/compliance/> accessed 11 July 2025.

rule of law, fostering justice, strengthening regional integration, and safeguarding human rights.

2.5 The Impact of Colonialism on the ECOWAS Integration

Under Article 93 of the ECOWAS Revised Treaty, Article 102 of the United Nations Charter, and Article 2(a) of the Vienna Convention, the ECOWAS is an international body; as such, the rule of law component of the ECOWAS remains a key element in the building, strengthening, and concretising of the democratic and governance structure of the ECOWAS. As argued earlier in sections 2.2.1 and 2.2.2, this has been primarily affected by colonialism, which has consequently impeded the smooth functioning of the ECOWAS legal regime. Upon decolonisation, the French and Portuguese colonies of West Africa adopted the civil law systems of their former colonial masters. In contrast, the British colonies adopted the British legal system.[364] This diverse legal system, still practised by the former colonisers even after independence, has been identified by scholars as a significant encumbrance to the ECOWAS legal regime.[365] An example of this is the lack of enforcement of the ECOWAS Treaty and of member states' compliance with the ECOWAS Court's decisions noted above.

Consequently, the separate legal systems of the ECOWAS member states continue to pose a challenge for the ECOWAS legal regime. This is beyond the purview of this research, but it is worth mentioning that the ECOWAS is working towards harmonising its legal system. For instance, in 1996, the ECOWAS set up a Committee to harmonise its legal system.[366] The committee had three members representing the three ECOWAS languages: English, French, and Portuguese.[367] The committee's success in harmonising the ECOWAS legal system has yet to be demonstrated in practice, as years after its establishment, scholars continue to

[364] Markus Böckenförde, Babacar Kante, Yuhniwo Ngenge and Kwasi H Prempeh, 'Judicial Review Systems in West Africa: A Comparative Analysis' (2016) HSF ch 1 <https://www.idea.int/sites/default/files/publications/judicial-review-systems-in-west-africa.pdf> accessed 30 July 2022.

[365] ibid

[366] Sunday Babalola Ajulo, 'Sources of the law of the Economic Community of West African States (ECOWAS)' (2001) 45 (1) JAL 73, 96 https://www.jstor.org/stable/pdf/3558969.pdf?refreqid=excelsior%3A449a62df6c39a13a6f18f199883b105a&ab_segments=&origin=&acceptTC=1> accessed 30 July 2022.

[367] ibid.

express concern about member states' failure to enforce ECOWAS Court judgments.[368]

When discussing the structure and operation of ECOWAS, it is essential to emphasise that ECOWAS closely resembles the European Union, mainly because its governance framework, established by the ECOWAS Treaty, closely mirrors that of the European Union. However, this researcher argues that this similarity highlights the enduring effects of colonialism on ECOWAS, primarily since it is managed by national leaders (the Authority) whose legal systems are influenced by colonial legacies and ongoing influences from former colonial powers – Europeans. Furthermore, this research contends that, while Europe is acknowledged as the centre of international law,[369] ECOWAS, by imitating the structural and operational models of the European Union, lacks the same level of institutional competence, as it does not transfer power to ECOWAS institutions in the same manner as the European Union.

This research finds that international law provides the platform for decolonisation and the emergence of sovereign states. Therefore, it is understandable why ECOWAS will emulate the European Union in its governance structure and function, as Europe is the centre of international law. However, ECOWAS and its member states, in following the European Union due to colonial ties and achievements, must pay particular attention to the ECOWAS context, interests, and needs of its citizenry, as opposed to those of the EU, since the ECOWAS Treaty was signed to represent the common and collective interests of its members at both regional and international levels.

Consequently, this research suggests that ECOWAS must act independently and focus less on colonial ties for its progress and development, recognising that ECOWAS is a global organisation and that sovereign nations signed its Treaty. However, where former colonial powers wish to engage with ECOWAS, it should be based on sovereign nations negotiating and contracting, rather than a subservient relationship, as during the colonial era. In Chapter Three, this

[368] Adigun (n 362).
[369] Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge University press 2012) ch 4.

research argues that Haas' notion of regional integration would better support ECOWAS' integration goals. Sovereign nations must transfer a degree of authority to independent bodies that oversee the matters of the contracting countries. Ideally, this centre would be staffed by experts in integration issues, allowing them to negotiate and make decisions without domestic interference, ultimately benefiting all participating states.

The French philosopher Jean-Paul Sartre introduced the concept of neo-colonialism.[370] Neo-colonialism, as noted by Nkrumah, is a new form of colonialism in which the colonised continue to depend on the coloniser even after independence.[371] Nonetheless, Nkrumah contends that, under neo-colonialism, the coloniser does not use force or direct military means but instead employs mechanisms such as financial aid, cultural imperialism, and systematic military alliances to exert implied control over the former colonies.[372] For example, Langan, in agreeing with Nkrumah, argues that African politicians pay little or no attention to the development or technological advancement of the region, instead focusing on creating and maintaining external relationships to preserve their political power.[373] As a result, neo-colonialism is seen as an ongoing effect of colonialism that hampers the advancement of ECOWAS. This stems from the fact that the Authority leading ECOWAS consists of the Presidents of its member states, who tend to be self-serving and motivated by their interests. In agreeing with Langan, it is argued that such desperate leaders would prioritise their political security and staying in power over the region's development and technological progress, regardless of the area's impoverished condition.

2.6 Conclusion

This review of ECOWAS history and background shows how countries, despite their diverse legal systems, languages, and cultures, are willing to cooperate to address common issues. Therefore, it is argued that, given the sub-region's severe energy access challenges, underutilised renewable energy resources, and natural potential, the ECOWAS integration could be leveraged to address these

[370] Sartre Jean-Paul, *Colonialism and Neo-Colonialism* (New York: Routledge 2001) ch 1.
[371] Nkrumah (n 227).
[372] ibid.
[373] Mark Langan, *Neo-Colonialism and the Poverty of 'Development' in Africa* (Palgrave Macmillan -Springer Cham 2018) ch 1.

challenges. However, this chapter concludes that colonialism has profoundly shaped and continues to influence the legal frameworks of West African nations and, by extension, the Economic Community of West African States (ECOWAS). Nevertheless, this research contends that ECOWAS can operate more effectively by strengthening its governance structure - if its institutions function independently - implying that national politicians should not be directly involved in overseeing ECOWAS activities.

However, following the above examination of colonialism, its repercussions, and the decolonisation process in West Africa—including the establishment and functioning of ECOWAS—it is somewhat understandable why ECOWAS and its institutions may lack the requisite authority to enforce legislation that is both binding and fully implemented by its member states. Nonetheless, the regional integration within ECOWAS could be leveraged to address issues such as energy poverty, security, supply, and affordability within the sub-region. Considering that ECOWAS member states are sovereign and autonomous, and acknowledging the region's abundant natural resources, their development could help alleviate the economic and social challenges faced by their populations. After reviewing ECOWAS integration in this chapter, Chapter Three assesses regional integration theories, including neofunctionalism, supranationalism, and intergovernmentalism through the EU model of integration, to further analyse ECOWAS integration. This analysis facilitated the assessment of the legal framework for renewable energy development and the energy transition discussed in Chapter Four.

CHAPTER THREE

AN ASSESSMENT OF REGIONAL INTEGRATION: ITS ORIGINS, DEFINITIONS, AND KEY CONCEPTS - A CASE FOR ECOWAS INTEGRATION

3.1 Introduction

Globally, there are various regional integration schemes; some have achieved notable success, while others have yet to record any significant progress.[374] Some examples of integration schemes include the EU and ASEAN, which have arguably successfully achieved their goals of cooperation and coordination in security and political matters.[375] The North American Free Trade Association (NAFTA) – for a common trade area in North America.[376] However, regardless of the integration's aims, integration schemes differ according to the institutional setup, functionality, scope, and size of member states.[377] This includes differences in elements such as geopolitics, economic benefits, learning processes, and the creation of shared identities.[378] For instance, the EU's integration is characterised as a supranational entity due to its legal and institutional framework. According to Jones, supranationalism occurs when states in integration delegate authority to a higher governing body.[379] Laursen describes the creation of supranational institutions in regional integration arrangements as a way to establish 'credible commitments'.[380] However, Cooley and Spruyt contend that the delegation of powers to supranational institutions in regional integration signals future compliance and limits states' sovereignty in international relations. [381]

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[374] Finn Laursen, *Comparative regional integration: Europe and beyond* (Taylor and Francis Group 2010) ch 1.
[375] Anh and Tien (n 163).
[376] Yi Feng and Gaspare M Genna 'Regional Integration and Domestic Institutional Homogeneity: A Comparative Analysis of Regional Integration in the Americas, Pacific, Asia and Western Europe' (2003) 10 (2) RIPE 278, 309 <https://www-jstor-org.ezproxy.lib.gla.ac.uk/stable/4177461?pq-origsite=summon> accessed 27 July 2023.
[377] Laursen 2010 (n 374).
[378] ibid.
[379] Alistar Jones, *Britain and the European Union* (Edinburgh University Press 2007) ch 6.
[380] Laursen 2010 (n 374) 4, 13.
[381] Alexander Cooley and Hendix Spruyt, *Contracting States: Sovereign Transfers in International Relations* (Princeton University Prince 2009) ch 1.

Following the review of the history and background of ECOWAS integration, as well as its legal and institutional framework in Chapter Two, this chapter, without directly comparing the EU and ECOWAS models of integration, focuses on analysing the core theories of regional integration, including neofunctionalism, supranationalism, and intergovernmentalism, through the lens of the EU's experience in terms of its governance structure and institutional competence. Consequently, this chapter argues that the EU is primarily a supranational organisation, while ECOWAS is mainly an intergovernmental organisation. According to Mattli, intergovernmentalism is an approach to regional integration centred on heads of state.[382] Jones, however, describes it as cooperation among sovereign nations, such as the UN and the North Atlantic Treaty Organisation (NATO).[383] Nevertheless, this chapter contends that the EU's supranational and neofunctionalist approach to regional integration enables it to coordinate binding regional renewable energy laws and policies and to facilitate the transition to renewables more effectively.

Accordingly, this chapter examines the historical development of regional integration from the EU's perspective and background, providing an analysis of the core theories and definitions of integration to lay a foundation for critically assessing ECOWAS integration in terms of its governance structure and implications for its renewable energy legal and policy framework, as well as support for renewable energy development and the energy transition in later sections and chapters of this research. It provides an overview of the origins of regional integration, its definitions and key concepts, the legal regime governing regional integration, and its role on the international stage. The chapter also discusses the challenges and benefits of regional integration, offers further analysis of ECOWAS integration, and concludes.

3.2 Evaluation of Regional Integration in the Context of European Integration

Given its historical connections to the development and concepts of regional integration, the researcher contends that a discussion of regional integration

[382] Walter Mattli, *The Logic of Regional Integration* (Cambridge University Press 1999) ch 1.
[383] Jones (n 379)

cannot be adequately addressed without examining the European integration model. Fundamentally, the integration of the EU was also propelled by the economies of its member states and the subsequent fuel crisis following the Second World War.[384] Currently, access to energy, security, supply, and affordability remains a concern for both the developed and developing worlds, especially concerning environmental issues like climate change and global warming, which are exacerbated by the world's overreliance on fossil fuels. Consequently, the researcher argues that addressing and managing these environmental challenges should prioritise increasing access to clean and sustainable energy within regional integration schemes, such as ECOWAS, which requires strengthening their frameworks to include renewable energy issues. This approach aims to collectively promote and develop renewable energy sources, thereby reducing reliance on fossil fuels. For instance, Woerdman and others argue that countries must encourage and develop renewable energy sources to combat the world's climate change problems.[385]

Therefore, this research argues that a more comprehensive understanding of regional integration, its concepts, advantages, and disadvantages, is necessary to make a case for regional integration through the ECOWAS. This is why the current chapter reviews the origins, foundations, and triggers of integration through the EU's model. This researcher contends that such knowledge would help ECOWAS and its members better understand the context of their model of incorporation and, perhaps, how to strengthen their integration, particularly in matters of energy transition, renewable energy development, and energy utilisation.

3.2.1 Overview of the European Union Model of Integration

To begin with, it is worth noting that this research is not just about amassing in-depth knowledge of integration but also answering the research objective of how regional integration, which is characterised by neofunctionalism and supranationalism, can aid the ECOWAS member states' energy sectors to promote energy transition, as well as the development and use of renewable energy in the

[384] Elspeth Berry, Barbara Bogusz, Matthew Homewood and Sophie Strecker, *Complete EU Law: Text, Cases, and Materials* (5th edn, Oxford University Press 2022) ch 1.
[385] Edwin Woerdman, Martha Roggenkamp and Marijn Holwerda, *Essential EU Climate Law* (Elgar 2021) ch 1.

sub-region. Accordingly, this background of integration, through the EU's experience aids the researcher to understand the origins of regional integration, its successes, and challenges, including arguments for and against it to enable the researcher to have a deeper understanding of integration and how best to apply the relevant concepts of integration to make a case for regional legislation and policies for the development of renewable energies in the ECOWAS sub-region. Furthermore, it is challenging to find a scholarly work on integration that does not reference or compare European integration, which is why this researcher argues that integration, its history, and its concepts are closely linked to the EU integration; therefore, the historical background of regional integration is provided using the EU's experience with the formation of a regional integration scheme.

This research examines regional integration based on the EU model, as Europe sought to unify and regenerate its cities following the Cold War through economic integration. On the contrary, ECOWAS integration largely stemmed from the quest for trade through economic integration following colonialism. However, the EU and ECOWAS integration align on economic integration and energy, as a key highlight of European integration is the management of the production and equitable distribution of coal and steel after the Cold War.[386] In essence, while coal, a traditional energy source, played a central role in the creation of the EU, this suggests that ECOWAS integration can be leveraged to support the transition from fossil fuels to renewable energy sources, as well as energy security, supply, and affordability in the sub-region. This research primarily focuses on the need to strengthen ECOWAS integration by incorporating the energy sector of the ECOWAS sub-region. Furthermore, this research demonstrates that the history of European integration is relevant to the current research because of the colonial linkages (covered in Chapter Two) between West Africa and Europe, as well as the broader implications of European integration and the lessons that ECOWAS could learn. For instance, the ECOWAS may endeavour to harmonise and align renewable energy laws and policies across its member states if its integration is established along supranational lines, similar to the EU.

[386] European Union, 'Schuman Declaration May 1950' < https://european-union.europa.eu/principles-countries-history/history-eu/1945-59/schuman-declaration-may-1950_en > accessed 17 July 2025.

As previously stated, European integration originated in the 1950s, when the concept was introduced.[387] The Cold War left Europe in ruins, marked by rivalries over the equitable production and distribution of coal and steel.[388] In search of tranquillity and European unity after the Cold War, Robert Schuman, then France's foreign minister, issued a press declaration in 1950.[389] Schuman, in the declaration, was persuaded by Jean Monnet, the French Commissioner of National Planning at the time,[390] who, in addition to Schuman's efforts to resolve the dispute between France and Germany,[391] suggested that an autonomous entity oversee the entire production and distribution of coal and steel, a supranational organisation – the 'High Authority'.[392] However, in addition to the need for fair distribution and management of coal and steel, the Benelux countries feared losing their sovereignty and being undermined by the arrangement, as well as being affected by the feud between France and Germany at the time.[393] Therefore, establishing the central authority was also intended to build confidence among the Benelux countries. Accordingly, both German and French leaders accepted the proposal, along with the leaders of Italy, Belgium, Luxembourg, and the Netherlands—the Benelux countries —and their acceptance led to the signing of the European Coal and Steel Community (ECSC) Treaty of Paris in 1951.[394] The ECSC, apart from being applauded for settling the feud between Germany and France,[395] is also credited with making Europe famous in political debates about the origins of regional integration.[396]

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[387] Arne Niemann, 'Neofunctionalism' in Marianne Riddervold, Jarle Trondal and Akasemi Newsome (eds), *The Palgrave Handbook of EU Crisis* (Palgrave Macmillan 2021) ch 6.
[388] Sandro Guerrieri, 'The start of European integration and the parliamentary dimension: the Common Assembly of the ECSC (1952-1958)' (2008) 28 (1) PER 183,193 <https://www.tandfonline.com/doi/epdf/10.1080/02606755.2008.9522283?needAccess=true&role=button > accessed 27 July 2025.
[389] Miroslav N Jovanović, *The Economics of European Integration: Limits and Prospects* (Edward Elgar Publishing 2005) ch 4.
[390] ibid.
[391] Alina Kaczorowska, *European Union Law* (Routledge-Cavendish 2009) ch 1.
[392] Treaty Establishing the European Coal and Steel Community (ECSC) [1951], art 8.
[393] Kaczorowska (n 391).
[394] ECSC (n 392).
[395] Kaczorowska (n 391).
[396] Michelle Cini and Nieves Pérez-Solórzano Borragán, *European Union Politics* (7th edn, Oxford University Press 2022) ch 1.

Furthermore, this researcher maintains that having an independent institution like the 'High Authority'[397] would increase the confidence of weaker states in the bloc against potential exploitation by stronger states. Therefore, in integration arrangements, this researcher argues that such arrangements should establish supranational organisations to manage their affairs, avoid potential exploitation, and protect the rights and benefits of weaker members within the bloc. For instance, regarding energy distribution within the ECOWAS sub-region, if an independent organisation does not manage energy issues, there could be an uneven distribution, as feared by the signatories to the ECSC. This could be why Benin, Ghana, and Togo, all ECOWAS members, had to sign a separate Treaty on the West African Gas Pipeline Project (WAGPA) with Nigeria to transmit natural gas from Nigeria.[398] Also, in 2022, the appointment of a new Director General from Nigeria sparked a feud among WAGPA members. The Francophone countries, Benin and Togo, accused Nigeria of appointing a Nigerian to head the organisation while its headquarters remain in Nigeria.[399] In essence, Nigeria faces accusations of exerting disproportionate influence over the organisation's decision-making processes. Perhaps, if the treaty had created an independent body to oversee the arrangements, Benin and Togo might have felt more secure in claiming their rights and benefits, as well as in safeguarding against potential exploitation by other nations.

As Schuman rightly acknowledged, regional integration will not only make war unlikely but also make it materially unreasonable.[400] Schuman's assertion is important and akin to the ECOWAS case. For example, the feud between Ghana and Nigeria at the advent of ECOWAS almost led to its failure; however, in the end, ECOWAS was established, which arguably helped settle the rift between the two countries, as both agreed to and signed the ECOWAS Treaty in 1975.[401] These two historical events highlight the importance of unity among geographically connected states in achieving a common goal: peace and security within their

[397] ECSC (n 392) art 8.
[398] Treaty on the West African Gas Pipeline Project (WAGPA) 1995.
[399] Emmanuel Addeh, 'FG insists on Rights to produce Head of West African Gas Authority' *THISDAYLIVE* (Abuja, 22 MAY 2022) <https://www.thisdaylive.com/index.php/2022/05/12/fg-insists-on-right-to-produce-head-of-west-african-gas-authority/> accessed 27 July 2025.
[400] Jovanović (n 389).
[401] Ojo (n 260).

territories. A current example is the Russia-Ukraine conflict, where scholars contend that if Ukraine were part of the EU or NATO, Russia would refrain from attacking Ukraine.[402] Moreover, Article 5 of the NATO treaty states that an assault on one member is an assault on all.[403] Provisions like NATO Article 5 are what motivate states to collaborate and pursue shared objectives effectively.

Accordingly, this researcher asserts that the European integration model remains an enduring example of integration schemes today. Some authors have also argued that European integration is the most successful integration scheme globally because the EU's incorporation arrangements established a supranational organisation to manage the homogeneity of domestic institutions.[404] However, Gillingham argues that the EU has failed and needs fundamental reform to survive.[405] For Gillingham, the EU institutions need to be reformed to adapt to globalisation and revive civilisation if the EU is to see the future.[406] Though McCormick maintains that the EU deserves commendation for peace, global influence, and the institutional benefits of regional integration.[407] While Gillingham argues that the EU faces challenges in integration, this researcher aligns with McCormick in recognising the EU's achievements, especially in its global impact and the advantages of regional integration. This researcher suggests that for scholars and policymakers keen on promoting ECOWAS development, analysing the EU integration model is essential for enhancing ECOWAS integration. Accordingly, subsection 3.2.2 reviews the evolution of the EU integration.

[402] Roman Petrov, 'Bumpy Road of Ukraine Towards the EU Membership in time of War: "Accession Through War v Gradual Integration"' (*European Papers*, 27 December 2023) < https://www.europeanpapers.eu/europeanforum/bumpy-road-ukraine-towards-eu-membership-time-war > accessed 3 April 2025.
[403] North Atlantic Treaty Organisation 1949.
[404] Feng and Genn (n 376).
[405] John Gillingham, 'The end of European dream' in Hubert Zimmermann and Andreas Dür (eds), *The European Union Series: Key Controversies in European Integration* (Palgrave Macmillan 2012) 19, 31.
[406] ibid.
[407] John McCormick, 'Why Europe Works' in Hubert Zimmermann and Andreas Dür (eds), *The European Union Series: Key Controversies in European Integration* (Palgrave Macmillan 2012) 11, 19.

3.2.2 Highlights of the Formation and Evolution of the European Union's Legal Regime

As previously mentioned, European integration developed and adapted with the main aim of fostering unity centred on the economy, free trade, and energy through neofunctionalism and supranationalism. After the Second World War, European leaders aimed to unite to rebuild Europe and its economies, as the war left the continent devastated and unstable. Consequently, in a move towards regional cooperation and to boost Europe's development, the six countries that signed the ECSC met on 25th March 1957 in Rome to sign two new treaties, the European Economic Community (EEC) and the European Atomic Energy Community (EURATOM), also known as the Rome Treaties.[408]

The Treaties of Rome, among other things, established a common market among member states by promoting the free movement of goods, services, capital, and people.[409] The six founding members signed the ECSC and the Rome Treaties in 1957. In 1967, the same six countries signed a Merger Treaty to merge the executive organs of the ECSC, EEC, and EURATOM.[410] Still eager to expand its functions and achieve the goals of the previous treaties, the Single European Act (SEA) was signed in 1986.[411] The Single European Act 1986 aimed to complete the internal market by eliminating trade barriers and harmonising member states' regulations.[412] Further, the Act introduced the principle of voting by a qualified majority, facilitating decision-making within the European Community.[413]

The signing of the SEA Act saw the membership of the United Kingdom, Ireland, and Denmark in 1973, Greece in 1981, and Portugal and Spain in 1986.[414] In 1992, the Maastricht Treaty established the EU and introduced the Euro as its single currency, creating the framework for the Economic and Monetary Union (EMU).[415]

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[408] Elspeth O'Riordan, *Understanding the Cold War: History, Approaches and Debates* (Palgrave Macmillan 2023) ch 1.
[409] Dirk Leuffen, Berthold Rittberger and Frank Schimmelfenning, *Integration and Differentiation in the European Union: Theory and Policies* (Springer Nature Switzerland 2022) ch 7.
[410] Paul Craig and Gráinne de Búrca, *EU Law: Text, Cases, and Materials* (8th edn, Oxford University press 2024) ch 1.
[411] ibid.
[412] ibid.
[413] ibid.
[414] ibid.
[415] ibid.

Additionally, the treaty expanded the EU's competencies to include foreign policy, justice, and internal affairs.[416] After the Maastricht Treaty came into force in 1993, Austria, Finland and Sweden joined the Union in 1995. Five years after the Maastricht Treaty, the Amsterdam Treaty was signed in 1997 to strengthen the EU's institutions, primarily, and to improve the EU's functioning, among other things, by introducing changes in justice and home affairs.[417] Following the Amsterdam Treaty, the Nice Treaty was signed in 2001. The Nice Treaty led to further reforms of the EU institutions, paving the way for the accession of ten countries: Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovenia, and Slovakia.[418]

Finally, the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union were signed in 2007 and entered into force on 1 December 2009.[419] The Lisbon Treaty aimed to reform the European Union's institutional framework and decision-making processes. Among other changes, it bolstered the authority of the European Parliament, established a permanent president of the European Council, and introduced the concept of a citizens' initiative.[420] By 2007, Bulgaria and Romania joined the EU, followed by Croatia in 2013.[421] The EU had twenty-eight members when the Lisbon Treaty was signed; however, the EU currently has twenty-seven members, following the United Kingdom's successful departure from the EU on 31 January 2020.[422]

This researcher contends that the EU has had notable successes, from which valuable lessons could be drawn. Since the signing of the ECSC in 1951 and up to the Lisbon Treaty, the EU has consistently enhanced and reformed its legal and institutional structure, along with bolstering its integration efforts. In contrast, the ECOWAS, as demonstrated in Chapter Two, has not had such a significant impact since its creation, especially in its legal and institutional framework. Another significant achievement is the growth of the EU's membership, which

[416] ibid.
[417] ibid.
[418] ibid.
[419] ibid.
[420] ibid.
[421] ibid.
[422] Berry and others (n 384) ch 16.

increased from six to twenty-eight members, and currently stands at twenty-seven. Notably, in 2021, 64 years after the ECSC's signing, only one member chose to withdraw, perhaps reflecting the EU's profound influence on its members and underscoring its overall success. It can be argued that the United Kingdom's exit did not signify success for the UK nor hinder the EU's progress.

Overall, it is argued that due to the EU's approach to regional integration, the EU has evolved through its legal framework in response to various challenges, including economic downturns, energy and environmental concerns, migration issues, and debates on the balance between national sovereignty and European integration. Nonetheless, its core mission has been to foster peace, stability, and economic prosperity among member states. The EU's success in achieving its goal is facilitated by a well-structured and effective governance system, as demonstrated in Chapter Five of this research, which provides an overview of the EU's governance framework and the roles played by its institutions.

3.3 A Review of Regional Integration and Its Key Concepts

This section reviews regional integration schemes, provides background on key concepts, and analyses the legal framework and its binding nature that establishes these schemes. It illustrates the extent to which ECOWAS laws and policies bind ECOWAS members and demonstrates why this research contends that the current ECOWAS framework adopts an intergovernmental approach to regional integration. Consequently, this research argues that it does not constitute an effective regional integration scheme capable of addressing the energy challenges facing the sub-region, nor of fostering renewable energy development and the energy transition in the ECOWAS sub-region. However, it is worth noting that there are different approaches to analysing regional integration schemes. For example, Laursen observes that views on regional integration are fragmented due to the different academic specialisations within the field.[423] Therefore, this section focuses on regional integration approaches, such as neofunctionalism, supranationalism, and intergovernmentalism, and examines whether the ECOWAS and EU treaties are complete or incomplete contracts.

[423] Laursen 2010 (n 374) 59, 61.

There are different ways to understand regional integration schemes and the various reasons behind these arrangements, which can be economic, political, security-related, energy-related, or connected to free trade areas, customs unions, and similar frameworks. Importantly, regardless of the motivation for integration, the legal framework between the countries is crucial because it affects the credibility, commitment, accountability, and trust of the parties involved. Consequently, the agreements vary in several aspects, as the type of agreement may determine whether the integration aligns with neofunctionalism theory or if it follows an intergovernmental approach. For instance, Cooley and Spruyt view regional integration as related to both complete and incomplete contracts between sovereign states.[424] They define a complete contract as an agreement that clearly specifies and regulates the behaviour of the parties, covering potential contingencies.[425] In contrast, an incomplete contract leaves some terms unspecified due to uncertainties related to procedural and strategic factors.[426] Based on the distinction between complete and incomplete contracts in regional integration arrangements, this research suggests that the theories of neofunctionalism and intergovernmentalism emerge. Specifically, intergovernmentalism involves incomplete contracts, as it assumes that states retain sovereignty regardless of the degree of integration.

Furthermore, Moravcsik, who supports intergovernmentalism, proposes that regional integration occurs through three stages: forming national preferences, bargaining between states, and developing institutional choice.[427] Moravcsik emphasises that economic actors primarily drive the process of regional integration, while interstate bargaining is understood through the concept of asymmetrical interdependence.[428] Moravcsik further contends that the more a state relies on a specific outcome, the more likely it is to compromise to achieve that goal.[429] Accordingly, Moravcsik's perspective on regional integration

[424] Cooley and Spruyt (n 381).
[425] ibid.
[426] ibid.
[427] Andrew Moravcsik, Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach' (1993) 31(4) JCMS 417,579 <https://onlinelibrary.wiley.com/doi/epdf/10.1111/j.1468-5965.1993.tb00477.x?saml_referrer> > accessed 24 July 2025.
[428] ibid.
[429] ibid.

emphasises the role of national governments in policy development, aligning with Hoffman's idea of regional integration schemes.[430] Mattli, similar to Moravcsik in the approach to regional integration, emphasises the importance of national governments being at the centre of decision-making.[431] Mattli argues that states remain the key actors in coordinating rules, regulations, and policies, thereby reducing the role of supranational institutions in integration arrangements.[432] However, this researcher argues that creating supranational institutions for energy-related issues may help build trust and confidence among contracting states. Additionally, addressing energy issues requires expertise, finance, innovation, and technological advancements to address concerns of energy security, supply, affordability, and sustainability, which may be beyond the power and competence of a single state, especially in the ECOWAS sub-region.

3.3.1 Analysis of the Legal Basis for Regional Integration Schemes

This section is titled 'regional integration' rather than simply 'integration', as the integration assessment is encompassed by regionalism, which implies integration. Accordingly, when the term 'integration' appears in the research, it means regional integration. Lambrehts and Alden define regionalism as the political endeavour focused on fostering community, along with the regional manifestation of global integration trends and changes in production and power dynamics within a specific geographical context.[433] Joseph refers to regionalism as a term that describes distinctive local geography and culture.[434] While Ivan and others note that various terminologies, including regionalism, have been used to explain regional integration, the authors define regionalism as:

> a project or attitude as an organising political principle that can be measured by the political willingness or voluntarism of elites and decision-makers to promote regional cooperation and political

[430] Andrew Moravcsik and Frank Schimmelfenning, 'Liberal Intergovernmentalism' in Antje Wiener, Tanja A Börzel and Thomas Risse (eds), *European Integration Theory* (3rd edn, Oxford University Press 2018) ch 4.
[431] Mattli (n 382).
[432] ibid.
[433] Kato Lambrechts and Chris Alden, 'Regionalism and Regionalisation' in Haynes Jeffery (eds) *Palgrave Advances in Development Studies* (London, Palgrave Macmillan 2005) 288, 312.
[434] Philip Joseph, 'Regionalism' (2019) AL <https://www-oxfordbibliographies-com.ezproxy1.lib.gla.ac.uk/display/document/obo-9780199827251/obo-9780199827251-0197.xml > accessed 27 July 2025.

> institutions within defined geographical boundaries or around regional economic, ecological, and social concerns.[435]

On its part, the United Nations encourages countries to form such regional cooperations to address collective concerns and achieve a common goal.[436] Regional integration schemes are international bodies and thus operate under international law. As noted by Anh and others in their definition of integration, the process of incorporation implicitly binds member countries to the bloc's rules.[437] Moreover, as Closa notes, the Treaty is an ideal instrument for promoting states' goals.[438] The following paragraphs examine the Treaty as a contract, an international agreement that establishes regional integration schemes such as the EU and ECOWAS.

In considering the historical context of regional integration from the perspective of the European Union (discussed in detail below in section 3.2), the six nations that executed the ECSC entered into an agreement. This is important for understanding the nature of the EU treaty and determining whether it is a complete or incomplete contract, as the accord would obligate all six parties upon entry into force of the ECSC Treaty. Furthermore, a treaty is an international agreement and should be regarded as such by the signatories, ensuring that its provisions comply with the principles of international law. For example, the 1969 Vienna Convention on the Law of Treaties defines a treaty as an international agreement concluded between states in written form, governed by international law.[439] The United Nations also notes that treaties are internationally binding instruments of international law.[440] Therefore, treaties are binding agreements that bind member states. As the Vienna Convention states, all treaties in force are binding on the members, and treaty obligations must be carried out in good

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[435] Ruxandra Ivan and Mathew M Shaw, *New Regionalism or No Regionalism?: Emerging Regionalism in the Black Sea Area* (Taylor and Francis Group 2012) 1, 5.
[436] Statute of the International Court of Justice, art 2; Charter of the United Nations 1945, art 52.
[437] Anh and Tien (n 163).
[438] Carlos Closa, 'Governance structures and processes in integration organizations' in Carlos Closa, Lorenzo Casini and Omri Sender (eds), *Comparative Regional Integration: Governance and Legal Models* (Cambridge University Press 2016) ch 1.
[439] Vienna Convention (n 281) art 2(a).
[440] United Nations, 'Treaty Collection' https://treaties.un.org/Pages/overview.aspx?path=overview/definition/page1_en.xml> accessed 7 February 2023.

faith.[441] This research argues that understanding the treaty as a contract is also crucial, particularly with respect to its completeness and incompleteness within the legal frameworks of the EU and ECOWAS.

Laursen, in analysing the treaty establishing various regional schemes such as the EU, the North American Free Trade Agreement (NAFTA), the Southern Common Market (MERCOSUR),[442] and ASEAN,[443] views the treaty as a contract and argues that some have complete contracts while others do not.[444] Cooley and Spruyt define a complete contract as one that explicitly stipulates and governs the conduct of the parties involved, including potential contingencies.[445] Conversely, an incomplete contract omits specific terms due to uncertainties associated with procedural and strategic considerations.[446] They cite NAFTA and the EU as examples of comprehensive contracts, considering NAFTA as such because, despite being intergovernmental and lacking a supranational institution, it demonstrates a high degree of precision and commitment, supported by ad hoc dispute-resolution mechanisms.[447]

Nonetheless, they contend that the existence of a supranational institution and delegation of authority still constitute a complete contract; however, the establishment of such entities restricts the sovereignty of states in the realm of international relations. Essentially, Cooley and Spruyt propose that states are not compelled to establish supranational institutions in regional integration, owing to their sovereignty and bargaining strength, thereby reducing the significance of supranational entities.[448] They emphasise that the completion of a contract is not inherently dependent on the creation of supranational institutions but rather on the inclusion of ad hoc dispute resolution mechanisms within the contract. Furthermore, Cooley and Spruyt argue that the EU framework renders renegotiation impossible after a change or amid uncertainty.[449] Nonetheless, this

[441] Vienna Convention (n 281) art 26.
[442] Treaty of Asunción 1991.
[443] Bangkok Declaration 1967.
[444] Laursen 2010 (n 374).
[445] Cooley and Spruyt (n 381).
[446] ibid.
[447] ibid.
[448] ibid.
[449] ibid.

research argues that the EU framework permits renegotiation, given its ongoing evolution through successive treaties since its inception, as demonstrated in Sections 3.2 above.

Laursen, referring the idea of complete and incomplete contracting above, argues that the EU framework constitutes a complete contract due to its supranational entity. In contrast, NAFTA is an incomplete contract due to the absence of a supranational entity, and consequently, it lacks credible commitment.[450] According to Laursen, the existence of a supranational organisation to manage treaty arrangements and a pre-established dispute resolution mechanism cannot be underestimated in regional integration arrangements, given the power asymmetry that may exist.[451] Consequently, in examining the aforementioned regional integration schemes, Laursen describes a complete contract as a treaty where commitments are managed by a supranational organisation, as in the case of the EU;[452] while a near-complete contract, according to Laursen, lacks the presence of a supranational organisation.[453]

Nonetheless, the contract may be termed complete, as in the case of NAFTA, because the treaty already provided for dispute settlement in any event, but it still lacks 'credible commitment'.[454] On the other hand, Ausiandra, in evaluating the prospects of integration with an incomplete contract, observed that the EU and NAFTA were founded on complete contracts, owing to the dispute settlement mechanisms embodied in the treaties that established both the EU and NAFTA.[455] Additionally, a detailed analysis of Laursen's book titled 'Comparative regional integration: Europe and beyond' shows that Laursen's idea of a complete contract for regional integration schemes involves an arrangement managed by a supranational institution.[456] This is where the institutions operate independently,

[450] Laursen 2010 (374) ch 1.
[451] ibid.
[452] ibid.
[453] ibid.
[454] ibid.
[455] Yusuf Ausiandra, 'The Prospect of Integration Through Incomplete Contract' (2013) 10 (3) IJIL 273, 298 < https://scholarhub.ui.ac.id/cgi/viewcontent.cgi?article=1272&context=ijil > accessed 26 February 2025.
[456] Laursen 2010 (n 374).

similar to the European Court of Justice, the European Parliament, and the Commission.[457]

Consequently, regarding regional integration arrangements that promote renewable energy development and energy transition, this research contends that such arrangements are more effective when aligned with supranationalism, owing to the complex and crucial nature of energy issues. Therefore, this research considers NAFTA as an incomplete contract and the EU as a complete contract, because the EU framework informs members of the legal structure and obligates them through clearly defined dispute resolution mechanisms, which this research further suggests may discourage members from breaching the treaty's terms. Additionally, it argues that smaller countries within the bloc would favour a comprehensive contract; however, such a contract may restrict state sovereignty as argued by Cooley and Spruyt above. Nonetheless, it is proposed that, since regional integration can be threatened by state sovereignty, a comprehensive contract establishing supranational institutions is necessary to ensure the equitable distribution of benefits, address common challenges, and enforce the bloc's rules and regulations. Accordingly, this research contends that when a regional integration scheme operates under a complete contract, no member can dominate decision-making, regardless of its size, economic standing, or social influence, as independent institutions oversee and manage the bloc's activities.

In advancing renewable energy development and facilitating the energy transition in the ECOWAS, the enforcement of the ECOWAS Court's decisions is crucial, given the court's role in upholding the rule of law, justice, accountability, and respect for human rights. This can be mainly achieved through a comprehensive contract. Additionally, this research suggests that if ECOWAS had been established along the lines of supranational institutions like the EU, independent agencies would be responsible for enforcing the court's rulings. Consequently, this would have enhanced its capacity to address issues related to energy poverty, thereby utilising its integration framework to advance energy security, supply, and affordability. Furthermore, ECOWAS may not encounter difficulties with its member states' compliance regarding ECOWAS Court decisions, as a regional arrangement that

[457] ibid.

creates a supranational institution inherently limits the sovereignty of its members and upholds the independence of the court. Through appropriate legal mechanisms, contracting states are expected to adhere to treaty obligations regardless of their individual strengths; failure to do so would result in the imposition of necessary penalties for treaty breaches.

Both Laursen and Ausiandra emphasise the importance of a dispute settlement mechanism in the treaties that constitute the blocs. This is essential because varying national and individual interests may emerge during the integration process. Thus, any accord uniting diverse states or individuals must anticipate potential disputes and incorporate provisions that address them, particularly in instances of treaty violations. Such measures could enhance the agreement, cultivate trust, and promote equitable treatment for smaller participants, recognising that the contracting states differ markedly in their economy, security, size, and influence within international decision-making. Haas's viewpoint on integration, discussed later in this section, emphasises the necessity of balancing power between states and institutions within a central authority.

Consequently, this researcher concurs with Haas regarding the imperative of a supranational organisation to oversee the interactions among contracting states, thereby ensuring equal treatment for all members. For instance, Article 2(1) of the United Nations Charter (1945) emphasises that regional arrangements must adhere to the principle of sovereign equality, stipulating that no single nation, regardless of its military or economic strength, should dominate the decision-making processes within the bloc. However, this might be far from how things operate in practice because stronger states have the potential to exploit weaker states in such arrangements. Also, unlike Laursen,[458] Ausiandra[459] views NAFTA as a complete contract, rather than nearly complete, because, according to Ausiandra, the NAFTA Treaty already provides for an ad hoc tribunal for dispute settlement; thus, it is considered a complete contract.[460]

[458] Laursen 2010 (n 374).
[459] Ausiandra (n 455).
[460] ibid.

On the other hand, according to Laursen, ASEAN is an incomplete contract because of the absence of a supranational organisation and a lack of dispute settlement mechanisms in the Treaty establishing the bloc.[461] Ausiandra, in agreeing with Laursen on the status of the ASEAN contract, argues that ASEAN, having been established via an incomplete contract, lacks the possibility of progress and further integration due to the absence of a dispute settlement mechanism in the Treaty establishing ASEAN. As argued, if a comprehensive contract for a regional integration scheme includes a dispute settlement mechanism and establishes a supranational entity in the Treaty establishing the scheme, contracting parties should look to the comprehensive contract to avoid larger participants taking advantage of or undermining smaller parties in the decision-making process of the scheme. This assumes that the dispute resolution process is independent and doesn't reflect the interests of more powerful states, or that a particular ideology does not influence it. Accordingly, this is important because these efforts at integration are primarily aimed at fostering a common goal and breaking down trading barriers among contracting states, including a joint fight against global insecurity and environmental problems that affect both developed and developing countries alike. The subsequent sub-sections examine regional integration, along with relevant definitions and concepts.

3.3.2 What is Integration?

In basic terms, integration refers to the act of combining or blending entities, whereas 'integrating' implies similar activities such as incorporation. This researcher asserts that integration may be a more effective strategy for states to collaboratively attain shared objectives, contingent on the specifics of the integration agreement. Regardless of the objectives a nation aims to achieve through partnerships with other countries, it is essential that a legal document clearly delineates the terms of engagement. Consequently, the integration agreement should be legally binding and include mechanisms for implementation and sanctions, thereby fostering confidence, accountability, and trust among the members and institutions of the regional integration framework.

[461] ibid.

However, when countries come together for such regional arrangements, there are benefits and challenges for both developed and developing nations. Additionally, some countries within the same bloc have a greater international presence than others. For example, Nigeria, the largest country in ECOWAS, might, for national interests, disagree with a decision made by ECOWAS, which could potentially alter that decision regardless of the opinions of other states in the bloc. In the case of EU integration, a well-known example is the 'empty chair crisis'—famous for threatening early European integration[462]—when France refused to take its seat at the Council for national interests, insisting it would occupy its seat only once it had achieved its objectives. [463] France's resistance was the first instance since the EEC's enforcement that the action of a single member state can halt the operation of the EEC.[464]

Additionally, this situation with France may arise when contracting states are at different economic levels. Nonetheless, the EU's integration still offers lessons for other regional schemes, as the EU's legal framework considers the differing economic development of its member countries in pursuing integration objectives.[465] Therefore, this section argues that establishing an independent institution to manage the parties' affairs is essential. This conclusion is drawn from the study of the EU's integration, which demonstrates that the EU established supranational institutions to oversee its integration affairs independently, a necessary step for the progress of regional integration schemes.

3.3.3 Definitions and Concepts of Integration

Many classical and contemporary scholarly definitions of integration exist. For example, Anh and others define integration as the process of integrating countries' economies into regional economic bodies, where the rules of the entire alliance bind member countries.[466] Kayizz-Mugerwa and others, in analysing Africa's failure

[462] Jeffrey Lewis, 'The Council' in Marianne Riddervold, Jarle Trondal and Akasemi Newsome (eds), *The Palgrave Handbook of EU Crisis* (Palgrave Macmillan 2021) ch 13.
[463] University of Luxembourg, 'Historical Events in the European Integration process 1945 – 2014' <https://www.cvce.eu/en/education/unit-content/-/unit/02bb76df-d066-4c08-a58a-d4686a3e68ff/62cd6534-f1a9-442a-b6fb-0bab7c842180> accessed 30 January 2023.
[464] ibid.
[465] TFEU (n 23) art 26.
[466] Anh and Tien (n 163).

in regional integration, define integration as the unrestricted movement of capital, goods, people, and services across domestic markets.[467] This definition outlines the parameters of EU integration, such as the common market and the customs union.[468] Another definition of integration is the realisation in a territory of the sense of community, organisations, and standard practices to ensure long-term, reliable expectations of peaceful change among its people.[469] Haas defined integration in the ground-breaking book, titled *The Uniting of Europe*,[470] as 'the process whereby political actors in several distinct national settings are persuaded to shift their loyalties, expectations, and political activities to a new centre whose institutions possess or demand jurisdiction over the pre-existing national states'.[471] While Linberg, following Haas's definition and concept of regional integration, in studying the EEC, defined integration as:

> the process whereby nations forgo the desire and ability to conduct foreign and key domestic policies independently of each other, seeking instead to make joint decisions or to delegate the decision-making process to new central organs; and (2) the process whereby political actors in several distinct settings are persuaded to shift their expectations to and political activities to a new centre.[472]

Overall, a common theme across the four definitions of integration above is that integration is a process in which countries come together for areas of shared interest.

However, this research adopts and concentrates on Haas's definition of integration and its related concepts when examining their historical background. This is because Haas' account of integration resonates with this researcher's argument concerning regional integration, particularly in encouraging states to

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[467] Steve Kayizzi-Mugerwa, Pedro Coneição and John C Anyanwu, 'Regional Integration in Africa: An Introduction' (2014) ADR <https://www.researchgate.net/profile/John-Anyanwu/publication/267764762_Regional_Integration_in_Africa_An_Introduction/links/5ad5d6970f7e9b2859372cb8/Regional-Integration-in-Africa-An-Introduction.pdf> accessed 12 January 2023.

[468] TFEU (n 23) art 3.

[469] Karl Wolfgang Deutsch, *Political Community, and the North Atlantic area: international organization in light of historical experience* (Princeton University Press 1968) 5, 7.

[470] Haas (n 102) 6.

[471] ibid.

[472] Leon Lindberg, *The Political Dynamics of European Economic Integration* (Stanford University Press 1963) 1, 11.

relinquish some of their loyalties and expectations towards a central authority to attain a common goal. Nonetheless, Haas's definition was juxtaposed with Lindberg's because Lindberg is another classical scholar who, like Haas, wrote on European integration by studying Haas' earlier writings and concepts of integration. This is because this research resonates with both Haas' and Lindberg's arguments on the need for a supranational organisation in integration arrangements, which both Haas and Lindberg highlighted in their definitions and concepts of integration. For instance, establishing a supranational entity would enhance the confidence and trust of member countries, particularly regarding the rule of law and accountability. However, it is worth noting that Haas and Lindberg disagree concerning the extent to which states should cede sovereignty to central authorities and the restrictions imposed on their rights in international deliberations.

Ultimately, the views and perspectives of Haas and Lindberg on European integration inform the perspective of the current research. In addition to discussing European Union integration, including its pros and cons, history, and how it all began with the six countries after the Cold War[473], it remains a helpful tool for realising the current research aims. For instance, the longing for peace and unity in Europe relatively mirrors the experiences of ECOWAS member states during decolonisation and the subsequent demand for a regional institution to promote economic development. Chapter Two of this research underscores that, while decolonisation presents a pathway to liberation, it has resulted in fragmentation, economic vulnerability, and uncertainty for countries within the West African sub-region. This situation resembles the circumstances faced by the founding nations of the European Union following World War II, which sparked a desire for unity and stability to foster collective economic advancement. Accordingly, this researcher contends that examining and understanding European integration can inform, reshape, and promote the development of ECOWAS integration, particularly given the notable successes of European integration,[474] notably in providing fundamental amenities such as electricity to its populace.

[473] University of Luxembourg (n 463).
[474] McCormick (n 407)

3.3.4 An Evaluation of Haas and Lindberg's Concept of Integration

An in-depth analysis of Haas indicates that the definition of integration mentioned above was formulated in the context of establishing the ECSC.[475] This highlights its importance for European integration during that period, especially with the establishment of a 'High Authority', a proposed supranational organisation by Schuman.[476] Hargrave describes supranational organisations as transnational unions in which countries cede some of their sovereignty to the organisations, which then make binding decisions on their behalf.[477] Sovereignty is commonly understood as the ultimate legal authority of a state over all other authorities.[478] This surrender of the state's legal authority arguably complicates the success of most integrations, as this research shows. For example, Lokulo-Sodipe and Osuntogun contend that one of the challenges hindering the advancement of ECOWAS integration is the preservation of state sovereignty, which, despite regional integration agreements and the ECOWAS treaty, maintains the sovereignty of member states intact.[479] Nonetheless, Haas's definition emphasises that a supranational organisation could independently make decisive internal decisions that would be obligatory for member nations. The subsequent sections and sub-sections demonstrate that some scholars have challenged the limits of supranational organisations' powers, particularly regarding national sovereignty and interests.

Haas's definition of integration emphasises two key concepts useful to this research: neofunctionalism and spillover, which are examined further in this section. Explicit in Haas's definition of integration is the idea of neofunctionalism,[480] in which state resources and loyalty shift from the state to a central authority, a supranational organisation that could propel further integration, indicating a spillover.[481] This has left scholars like Hoffman who argue

[475] Lindberg (n 472).
[476] ECSC (n 392).
[477] Marshall Hargrave, 'What is Supranational? Definition, Criticism, and Examples' (*Investopedia*, 23 December 2020) <https://www.investopedia.com/terms/s/supranational.asp> accessed 4 February 2025.
[478] Stella Margariti, *Defining International Terrorism: Between State Sovereignty and Cosmopolitanism* (Vol 15, International Court of Justice Series 2017) 27, 61.
[479] Lokulo-Sodipe and Osuntogun (n 129) 255, 392.
[480] Carsten Strøby Jensen, 'Neo-functionalism' in Michelle Cini and Nieves Pérez-Solórzano Borrangán (eds), *European Union Politics* (7th edn, Oxford University Press 2022) ch 4.
[481] ibid.

that the state should remain the central authority to make a case for intergovernmentalism.[482] Intergovernmental interaction is embedded in intergovernmentalism, in which nation-states establish intergovernmental organisations, such as the United Nations, to manage common issues in security, the environment, energy, politics, and other areas.[483] Thus, in intergovernmental arrangements, states retain their sovereignty, as is the case with ECOWAS, as argued by Lokulo-Sodipe and Osuntogun.[484]

In contrast to neofunctionalism, the state relinquishes all or some of its sovereignty (depending on the form of agreement) to a supranational organisation as noted above. However, for Hoffman and proponents of intergovernmentalism, the state should continue as the central authority and a significant participant in international politics, regardless of regional integration efforts.[485] Implied in intergovernmentalism is the preservation of state sovereignty and states' bargaining power within global politics, positioning the state as a primary hurdle to regional organisations- some states prefer to retain their negotiating strength in international matters. An example is the famous 'empty chair crisis' in 1965, during the early days of EU integration, when the French government, led by Charles de Gaulle, boycotted an EEC meeting as a protest against the EEC's direction to uphold French national sovereignty and protect French interests.[486] Although France subsequently supported the EEC,[487] France's action exemplifies the extent to which nations will go to safeguard their sovereignty and national interests within regional or global frameworks.

Haas coined the term 'neofunctionalism' as a concept of integration.[488] Whereby a central authority, referred to as a supranational authority, is established to

[482] Stanley Hoffman, 'Obstinate of Obsolete? The Fate of the Nation-State and the Case of western Europe' (1966) 95 (3) TC 862, 915 <https://www-jstor-org.ezproxy.lib.gla.ac.uk/stable/pdf/20027004.pdf?refreqid=excelsior%3A7009ddeb059268fbe0f954be22c34628&ab_segments=&origin=&initiator=&acceptTC=1> accessed 4 February 2025.
[483] Grigorescu, Alexandru, *The Ebb and Flow of Global Governance: Intergovernmentalism Versus Non-governmentalism in World Politics* (Cambridge University Press 2020) ch 1.
[484] Lokulo-Sodipe and Osuntogun (n 129).
[485] Alexandru (n 483).
[486] Niemann (n 387).
[487] ibid.
[488] Jensen (n 480).

oversee the shared matters of the integration countries.[489] A core idea of neofunctionalism, developed by Haas, is 'spillover', which holds that integration in one issue can lead to integration in another, thereby enabling further integration.[490] A classical definition of 'spillover' by Lindberg is that it 'refers to a situation in which a given action, related to a specific goal, creates a situation in which the original goal can be assured only by taking further action, which in turn creates a further condition and a need for more action, and so forth.'[491] According to Lindberg, the concept developed by Haas suggests that incorporating a sector of an economy, such as coal and steel in Europe, will lead to the integration of areas, including both political and economic aspects.[492]

Lindberg's concept of 'spillover' is essential to neofunctionalist theories of regional integration, providing a theoretical basis for the EU's gradual development.[493] Spillover describes the phenomenon in which integration in one sector creates functional, political, or institutional pressures that necessitate and promote further integration across interconnected areas and domains.[494] Lindberg identified three main types of spillover: functional spillover, which occurs when economic cooperation in one area, such as a customs union, requires the development of standardised regulations and policies in related fields like competition law, transportation, or environmental governance; political spillover, which involves the gradual shift of loyalty, influence, and expectations from national governments to supranational entities as non-state actors and interest groups increasingly see these institutions as platforms for advancing their aims; and cultivated spillover, which pertains to the active engagement of supranational bodies, such as the European Commission, in fostering consensus and encouraging greater cooperation among member states through agenda-setting and institutional entrepreneurship.[495]

[489] ibid.
[490] ibid.
[491] Lindberg (n 472) 10, 13.
[492] ibid.
[493] ibid.
[494] ibid.
[495] ibid.

This researcher argues that, in renewable energy development and the energy transition, the concept of spillover in integration is currently vital for nations to collaborate toward a shared goal. Current academic discourse increasingly emphasises that the progress of renewable energy and the broader global energy transition require not only national initiatives but also regional cooperation and institutional integration.[496] This stems from the transnational nature of energy flows, environmental impacts, and technological progress.[497] Researchers assert that isolated national strategies are insufficient to address the scale and complexity of transitioning from fossil fuels to low-carbon energy systems, especially in areas such as West Africa, where issues like energy access deficiencies, infrastructural challenges, and financial constraints are closely interconnected.[498]

In this context, Lindberg's neofunctionalist concept of 'spillover' offers a compelling theoretical framework for comprehending the dynamics of regional energy integration. Lindberg argues that integration within a single sector produces functional, political, and institutional pressures that compel additional integration in related policy domains.[499] Consequently, initial collaboration in renewable energy—such as joint infrastructure initiatives, cross-border electricity commerce, or standardised regulatory frameworks—can effectively extend into associated domains like environmental conservation, grid management, and industrial policy. This functional spillover is evident in initiatives such as the WAPP and the ECREEE, which aim to facilitate legal and technical coordination among member states.[500]

Furthermore, in terms of renewable energy and energy transition, political spillover may occur as national stakeholders increasingly interact with regional

[496] Jörg Radtke and Ortwin Renn, 'Participation in Energy Transition: A Comparison of Policy Styles' (2024) 118 ERSS <https://www.sciencedirect.com/science/article/pii/S2214629624003347#s0075 > accessed 14 July 2025.
[497] ibid.
[498] ibid.
[499] Lindberg (n 472).
[500] ECREEE, 'ECOWAS Renewable Energy Policy' (*ECOWAS*, September 2012) <https://www.agora-parl.org/sites/default/files/agora-documents/151012_ecowas_renewable_energy_policy_final.pdf> accessed 9 July 2025.

institutions to achieve common energy objectives, thereby altering allegiances and support for supranational entities.[501] In this context, regional institutions—such as the ECOWAS Commission—can adopt a proactive stance by fostering enhanced cooperation, serving as agenda-setters and policy innovators.[502] This cultivated spillover illustrates the growing consensus among scholars and policymakers that energy transition initiatives can promote regional integration, mainly when supported by mutual commitments to climate resilience, economic transformation, and sustainable development.[503] Essentially, the rationale of spillover integration provides both a theoretical framework and a normative approach for achieving regional energy objectives. It demonstrates how collaboration in renewable energy can catalyse broader institutional convergence, supporting the notion that the energy transition is not just a technical goal but also a driver of regional solidarity and governance development.[504] This is particularly pertinent in areas such as ECOWAS, where collaborative efforts are crucial to addressing infrastructural disparities and ensuring fair access to clean energy.

This necessity arises from the persistent global issues of energy poverty, security concerns, and environmental threats that affect economies and human life. Conversely, Forere asserts that neofunctionalism and the spillover notion are unachievable within African integration frameworks, as national governments are inclined to maintain their sovereignty despite ongoing efforts at integration.[505] This researcher argues that achieving these goals is possible because treaties may

[501] Mwangi Kimenyi and Katrin Kuhlmann, 'African Union: Challenges and Prospects for Regional Integration in Africa' (2012) WJDIR <http://dx.doi.org/10.2139/ssrn.4126691> accessed 9 July 2025.
[502] Philippe C Schmitter, 'Neo-functionalism' in Antje Wiener and Thomas Diez (eds), *European Integration Theory* (2nd edn, OUP 2009) 45, 74.
[503] Jörg Radtke and Ortwin Renn, 'Participation in Energy Transition: A Comparison of Policy Styles' (2024) 118 ERSS <https://www.sciencedirect.com/science/article/pii/S2214629624003347#s0075 > accessed 14 July 2025.
[504] Mark M Akrofi, Benjamin C McLellan and Mahesti Okitasari, 'Characterizing 'injustices' in clean energy transitions in Africa' (2024) 83 ESD <https://doi.org/10.1016/j.esd.2024.101546.> 9 July 2025.
[505] Malebakeng Forere, 'Is Discussion of the: "United States of Africa" Premature? Analysis of ECOWAS and SADC Integration efforts' 56 (1) JAL 29, 59 <https://www-cambridge-org.ezproxy.lib.gla.ac.uk/core/journals/journal-of-african-law/article/is-discussion-of-the-united-states-of-africa-premature-analysis-of-ecowas-and-sadc-integration-efforts/0BB5F098D2EF53D974E0AEB0F190D5E5> accessed 5 March 2023.

be amended to address current and joint issues as they arise, particularly global problems that require prompt, coordinated action to address environmental concerns, including international peace and security.

However, as discussed in chapter one of this research, African nations value and protect their independence and domestic interests more than the corporate homogeneity of the continent, emphasising the preservation of their sovereignty and the safeguarding of their distinct national interests. Debrah and others argue that governments are reluctant to cede significant authority to supranational entities or implement policies that may disproportionately benefit corporate interests at the expense of national priorities.[506] Consequently, the concept is crucial, offering an in-depth understanding of integration and its potential expansion to issues not initially considered. For instance, this idea aligns well with this research objective to advocate for the development of renewable energy and energy transition in the sub-region, which involves advancing the ECOWAS integration into the energy sectors of the participating countries.

While the necessity of the spillover concept for this research is acknowledged, it is not without criticism; the intergovernmentalism advocates previously mentioned object to it for the reasons outlined earlier. However, other neofunctionalists and historical institutionalists agree that spillover drives regional integration; their emphasis, however, differs. For instance, neofunctionalists emphasise that cooperation in a single sector creates the need for collaboration across related sectors, thereby expanding,[507] for example, the EU's scope and influence, primarily through supranational institutions.[508] On the other hand, historical institutionalists emphasise the path-dependent nature of integration, in which past institutional choices and decisions shape future

[506] Yaw A Debrah, Oluwaseun E Olabode, Femi Olan and Richard B Nyuur, 'The African Continental Free Trade Area (AfCFTA): Taking stock and looking ahead for international business research' (2024) 30 (2) JIM <https://doi.org/10.1016/j.intman.2024.101120.> accessed 9 July 2025.

[507] Finn Laursen, 'Theory and Practice of Regional Integration' (2008) 8(3) Jean Monnet/Robert Schuman Paper Series 9, 17 <https://core.ac.uk/download/pdf/5080886.pdf > accessed 17 July 2025.

[508] Maryna Rabinovych, 'Could the spillover effects of war strengthen EU enlargement?' (*The Loop,* 25 February 2025) <https://theloop.ecpr.eu/can-spillover-effects-of-war-strengthen-eu-enlargement/ > accessed 17 July 2025.

possibilities and constraints.[509] Furthermore, Robinovych, in analysing the spillover effects of war on EU integration, suggests that crises often produce spillovers that can deepen and broaden integration.[510]

Hatton, when examining the two concepts of functional and political spillovers through Haas's lens, argues that the functional spillover in the EU has been successful, as pressures from the coal and steel sectors have led to further integration, including the adoption of a common currency.[511] Hatton also states that the political aspect emphasises the importance of both supranational and subnational actors in promoting further integration across various areas.[512] An additional analysis of the Haas spillover concept suggests that ECOWAS might enhance its integration by establishing suitable institutional frameworks to collaboratively address global environmental issues and challenges related to energy poverty and security within the ECOWAS sub-region.

Haas and Lindberg agree on the definition of integration, its process, joint decision-making, and the delegation to a centre; however, Lindberg expresses reservations about shifting loyalties.[513] Lindberg's definition is more restrained than Haas', and Lindberg argues that political actors merely shift expectations, not loyalty.[514] This is because Lindberg's definition further considers the possibility that some states may be unwilling to relinquish their bargaining power to a central authority, regardless of the integration arrangements.[515] This is implied in the first part of Lindberg's definition, which acknowledges that states may decide to make joint decisions or to delegate them to the centre. For Haas, once states have been persuaded, they should automatically relinquish their loyalties and expectations to the centre.

[509] Laursen 2008 (n 507).
[510] Rabinovych (n 508).
[511] Lucy Hatton, 'Theories of European Integration' (*CIVITAS*, 8 August 2015) <https://www.civitas.org.uk/content/files/OS.16-Theories.pdf> accessed 17 July 2025.
[512] ibid.
[513] Leon N Lindberg and Stuart A Scheingold, *Europe's Would-Be Polity: Patterns of Change in the European Community* (Prince-Hall International 1970) ch 1.
[514] Niemann (n 387).
[515] ibid.

Accordingly, this researcher argues that Haas's position is strict and may be problematic because it tends to weaken states' sovereignty, especially in West Africa, where the states are newly independent and have been noted for not being willing to relinquish their sovereignty, irrespective of their quest for regional integration.[516] It is worth noting that Lindberg, like Haas, is a neofunctionalist who advocates for regional integration, where a central authority can make decisions on behalf of the bloc.[517] However, Lindberg implicitly recognised that the extent and depth of integration may be subject to change.[518] Therefore, it is crucial to consider Lindberg's cautious stance on state sovereignty in regional integration, especially regarding the independence of states in national and global policy decisions, because state sovereignty remains a barrier to integration and is central to debates on intergovernmentalism and neofunctionalism concerning regional integration schemes.

3.3.5 Analysis of EU and ECOWAS Integration: Intergovernmentalism vs. Neofunctionalism

Having previously defined and explored regional integration and key integration concepts, this section applies the concepts of intergovernmentalism and neofunctionalism to the integration processes in the EU and ECOWAS. As highlighted earlier, intergovernmentalism and neofunctionalism represent agreements among states to collaborate towards a shared goal. However, in intergovernmentalism, states retain their full sovereignty, whereas in neofunctionalism, they surrender part of their sovereignty to the central authority established by the integration framework. Consequently, Haas' interpretation of integration reflects the idea of creating an independent organisation that requires participating states to delegate certain powers. This independent entity is known as a supranational organisation, where member states grant authority to a higher governing body, often referred to as supranationalism.[519] Thus, neofunctionalism is closely related to supranationalism, and the concept of neofunctionalism is inherently linked to the idea of supranationalism.

[516] Lokulo-Sodipe and Osuntogun (n 129).
[517] Lindberg and Scheingold (n 513).
[518] ibid.
[519] Jones (n 379).

3.3.5.1 Intergovernmentalism

Jones describes intergovernmentalism as the cooperation among national governments while retaining their sovereignty, with the United Nations and the North Atlantic Treaty Organisation (NATO) as examples.[520] Another example is the Intergovernmental Authority on Development (IGAD), which comprises eight countries: Djibouti, Eritrea, Ethiopia, Somalia, South Sudan, Sudan, Kenya, and Uganda.[521] The EU's classification as an intergovernmental organisation has consistently sparked academic discussion, especially regarding the institutional authority of its central bodies. Costa and Peers argue that classifying any EU institution as either intergovernmental or supranational leads to a distortion of reality.[522] This is because the EU's institutional structure is hybrid and dynamic, reflecting a complex interplay between the two models of governance.[523] Particularly when engaging with the European Commission or the Court of Justice of the EU, institutions such as the European Council or the Council of the EU, which are frequently referred to as intergovernmental, often exhibit supranational influence, according to their perspective.[524] At the same time, supranational institutions such as the Commission are also influenced by national interests and political negotiation.[525]

Consequently, Kirpsza argue that rigid classifications are inadequate to account for the institutional interdependence and evolving practices of decision-making within the EU, where power is shared, contested, and negotiated across levels rather than strictly distributed.[526] It is imperative to comprehend the practical effects of integration from this nuanced perspective. In contrast, Jones asserted that some aspects of the EU are intergovernmental while others are

[520] ibid.

[521] Intergovernmental Authority on Development, 'About IGAD: its history and development' < https://igad.int/about/?tab=the-history > accessed 5 May 2025.

[522] Marios Costa and Steve Peers, 'Institutions of the union: Composition and Powers' in Steiner and Woods (eds), *EU Law* (15th edn, OUP 2023) ch 2.

[523] ibid.

[524] ibid.

[525] Adam Kirpsza, 'Not so independent? The effect of Commissioners' attributes on EU member states' bargaining success' (2024) 47(4) WEP 915, 941 <https://www.tandfonline.com/doi/full/10.1080/01402382.2023.2183655#abstract> accessed 10 July 2025.

[526] ibid.

supranational.[527] Additionally, Smeets and Zaun, in concurrence with Jones, while exploring 'what is intergovernmental about the EU…', observe that the European Council and the Council of Ministers operate on an intergovernmental basis, whereas the European Parliament and the Commission function in a supranational capacity.[528] However, this researcher views the EU as a supranational organisation, grounded in its legal framework, which, in turn, supports renewable energy development and the energy transition. Thus, it is argued that the EU is a supranational organisation for the reason outlined in the following paragraph.

In Chapter Five, Section 5.2 of this research, when assessing the EU's renewable energy legal framework, it is acknowledged that the EU Commission is described as integrationist. Chapter Five further notes that the Renewable Energy Regulation of the EU empowers the Commission to monitor and ensure the implementation of the EU's renewable energy Directives and sanction member states that have failed to meet their national targets. This is why this researcher considers the EU a supranational organisation. For example, to support and promote renewable energy and the energy transition, the EU can set legally binding targets and sanction member states that fail to meet them. In contrast, if the EU is viewed as an intergovernmental organisation, it cannot set legally binding targets or sanction member states that fail to meet them, as decision-making would remain with the states. Consequently, Union targets may not be met, making the EU more vulnerable regarding energy security, affordability, supply and climate change issues, and it will continue to depend on Russian oil and gas. The smaller countries in the bloc would likely face challenges with energy security and affordability. For this researcher, if common issues such as energy issues are not managed by an independent centre, a supranational institution, especially in the context of an integration arrangement, the aim of such integration in terms of energy security, affordability, and supply may not be feasible due to unbalanced bargaining powers.

[527] Jones (n 379).

[528] Sandrino Smeets and Natascha Zaun, 'What is intergovernmental about the EU's (new) intergovernmentalist' turn? Evidence from the Eurozone and asylum cries' (2021) 44 (4) WEP 852, 872 < https://www.tandfonline.com/doi/full/10.1080/01402382.2020.1792203#abstract > accessed 5 May 2025.

Following the review of ECOWAS integration in Chapter Two and the analysis of the ECOWAS renewable energy legal framework in Chapter Four, this research argues that ECOWAS is an intergovernmental organisation. This view stems from findings in Chapter Four, which indicate that the ECOWAS renewable energy legal framework has minimal to no domestic impact at both national and regional levels. For instance, in Chapter Four, the ECOWAS electricity access rates presentation illustrates a significant disparity in electricity access among ECOWAS member states. Reviewing the ECOWAS renewable energy legal framework reveals a lack of alignment among its laws and policies, non-binding provisions, and inadequate institutional competence. In contrast, Chapter Five of this research argues that the EU's success in achieving its renewable energy targets is due to the binding nature of its renewable energy legal framework. Meanwhile, domestic circumstances would influence these policies within intergovernmental arrangements where member states retain their sovereignty. For instance, Ogbeidi argued that ECOWAS' slow progress in integration relative to the EU is due to ECOWAS leaders frequently prioritising sovereignty over integration initiatives and policies.[529] This emphasises the unusual characteristics of intergovernmental arrangements that may hinder regional integration goals, as exemplified by ECOWAS integration.

3.3.5.2 Neofunctionalism

Ogbeidi contended that ECOWAS aligns with Haas' neofunctionalist integration theory, yet its integration advances more slowly than the EU, which continues to thrive.[530] Ogbeidi also stated that neofunctionalism's concept of 'spillover' has not facilitated ECOWAS integration, as this theory appears less applicable to developing nations.[531] Leaders from less developed sub-regions, such as West Africa, are unlikely to cede their authority, unlike their more liberal counterparts in the EU.[532] According to Debrah and others, developing nations stress the

[529] Michael Ogbeidi, 'Comparative integration: A brief analysis of the European Union(EU) and the Economic Community of West African States (ECOWAS)' (2010) 3(10) JISR 1, 9 < https://www.sosyalarastirmalar.com/articles/comparative-integration-a-brief-analysis-of-the-european-union-eu-and-the-economic-community-of-west-african-states-ecow.pdf > accessed 5 May 2025.

[530] ibid.

[531] ibid.

[532] ibid.

preservation of their sovereignty and the safeguarding of their distinct national interests.[533] Consequently, it is the reluctance of nations to cede significant authority to supranational entities or to implement policies that may disproportionately benefit corporate interests at the expense of national priorities.[534] However, having reviewed ECOWAS integration and its legal framework, including the institutional setup in Chapter Two, this researcher argues that ECOWAS integration falls short of Haas' neofunctionalist integration theory. For instance, in Chapter Two, the review of ECOWAS integration demonstrates that a member state's president leads the organisation at any given moment. This suggests that domestic interests may influence decision-making, supporting Ogbeidi's claim that ECOWAS leaders prioritise sovereignty over integration policies. Consequently, this researcher argues that ECOWAS operates as an intergovernmental organisation, as evidenced in chapter two, where member states hesitate to cede their sovereignty. This stands in contrast to Haas' neofunctionalism theory, which suggests that participants must relinquish some of their sovereignty to a higher authority.

Moreover, the principal legislative authority of ECOWAS is the Authority of Heads of State and Government, which comprises the presidents of ECOWAS member states. In contrast, the European Council within the European Union, akin to the ECOWAS Authority, is characterised by Jones, Smeet, and Zaun as an intergovernmental institution. Having examined ECOWAS integration, this researcher concurs with Jones, Smeet, and Zaun that ECOWAS qualifies as an intergovernmental organisation.[535] Consequently, this research focuses on deriving lessons for ECOWAS from the European Union experience, rather than engaging in a comparative analysis of their integration models to determine how such arrangements can support renewable energy development and the energy transition within the sub-region.

[533] Debrah and others (n 506)
[534] ibid.
[535] Jones (n 379); Smeets and Zaun (n 528).

3.4 Analysis of the Strengths and Weaknesses of Regional Integration: EU versus ECOWAS

Integration, its definition, and its concepts have been discussed above. Therefore, this section provides an overview of why countries integrate. The historical background of EU integration, as mentioned in section 3.2 above, shows that countries unite to collectively address common issues affecting trade, security, the environment, and energy, among others. Therefore, regional integration is important and should be encouraged by national governments. Further, despite criticisms against the powers yielded to supranational organisations, this researcher argues that is important for such organisations to be established to manage the arrangements of integration because embedded in the idea of integration, as developed by Haas above is the need for countries to transact on neutral, equal, and impartial terms – where no one country is allowed to dominate the decision-making process. For example, all the integration schemes noted above, including ECOWAS, were established through treaties, which can be complete or incomplete contracts depending on their provisions. So, where a treaty is a complete contract, as in the case of the EU discussed above, the parties will be encouraged to obey treaty obligations to avoid penalties from the centre. Closa noted that the treaty is an ideal instrument for promoting state goals.[536]

Additionally, the examination of regional integration shows several challenges faced by regional agreements. Each organisation exhibits its unique strengths and weaknesses; some issues stem from unclear language in the founding treaty, while others result from national interests, in which states, in their quest to preserve sovereignty, obstruct the bloc's collective decision-making. Although some benefits of regional integration have been identified, this section delves further into its additional strengths before addressing the weaknesses these arrangements face or may encounter. This analysis reflects this researcher's perspective and comprehension of regional integration frameworks.

3.4.1 Strengths

The World Bank notes that regional arrangements help countries, particularly developing countries, address impediments to the free movement of goods,

[536] Closa (n 438).

people, services, capital, and technologies.[537] Accordingly, such encumbrances will constrain growth, especially economic development, because the integration allows national governments to unite and decide how to tackle common issues. As noted above, integration arrangements encompass economic, political, environmental, and energy aspects, including those related to global peace and security. The sections above on the concept of spillover demonstrate that integration can extend into economic, political, environmental, and security concerns, thereby encompassing other issues as they arise. For example, as part of a free trade agreement, NAFTA initially established two supplementary bodies: the North American Commission on Labour Cooperation and the North American Commission for Environmental Cooperation (NACEC).[538]

Remarkably, the NACEC requests that members improve and enforce domestic environmental laws, aligning Mexico's domestic ecological legislation and enforcement mechanisms with those of Canada and the United States.[539] By extension, the ECOWAS may also establish a supplementary treaty or protocol for renewable energy development by enacting binding laws and policies. For instance, the existing ECOWAS Energy Protocol, which took effect six years before the Paris Agreement, has been in place for twenty years. Therefore, ECOWAS might consider enacting an amendment treaty or protocol to align with the Paris Agreement, thereby updating its legal framework to remain in line with evolving global energy and environmental issues.

A significant benefit of regional integration is its potential to enhance the domestic and foreign policies of both developed and developing nations to promote energy transition and advance renewable energy. For developing countries, this integration can help participating nations strengthen their legal frameworks for their energy sectors. For example, Reiss argues that the lack of economic and social growth is the cause of ‘energy poverty’ in the ECOWAS sub-

[537] World Bank, 'Regional Integration' <https://www.worldbank.org/en/topic/regional-integration/overview> accessed 5 March 2023.
[538] Feng and Genna (n 376).
[539] ibid.

region.[540] Such issues, as argued by Reiss, can be collectively addressed by the countries in the sub-region through the ECOWAS. Thus, countries may pursue integration frameworks to establish a common market, a customs union, a monetary union, or a free trade area, such as NAFTA. According to Kayizz-Mugerwa and others, effective regional integration in Africa can lead to fair economic growth and decreased poverty and unemployment.[541] Kayizz-Mugerwa and others emphasise that such integration can enable smaller economies to engage in trade with larger ones, enhancing their global competitiveness.[542]

Additionally, Kayizz-Mugerwa and others argue that in terms of energy, twenty countries on the continent have national power systems that are below the minimum efficient scale of a single power plant.[543] As such, regional incorporation could foster power pools among the countries.[544] Although China is a single sovereign state, Kang and others, in considering the relevance of regional integration in energy efficiency, emissions reduction, and sustainable development in China, argue that regional integration could improve China's overall energy efficiency and sustainable development policies.[545] Furthermore, on the benefits of regional integration, Campos and others say that if Norway had completed its arrangements to join the EU in 1995, its productivity level between 1995 and 2001 would have been higher than 6 per cent.[546] This shows one of the many benefits of integration on the national economies of contracting states. Therefore, such regional arrangements, regardless of national interests, should be encouraged and furthered, because no country can survive on its own; countries need each other's continued existence.

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[540] Karin Reiss, 'Developing Renewable Energy Sectors and Technologies in West Africa' *(United Nations, December 2015)* <https://www.un.org/en/chronicle/article/developing-renewable-energy-sectors-and-technologies-west-africa> accessed 21 March 2023.

[541] Kayizz-Mugerwa and others (n 467)

[542] ibid.

[543] ibid.

[544] ibid.

[545] Jijun Kanga, Chenyang Yu, Rui Xuec, Dong Yangd and Yuli Shane, 'Can regional integration narrow city-level energy efficiency gap in China?' (2022) 163 EP 112820 <https://www.sciencedirect.com/science/article/abs/pii/S0301421522000453 > accessed 24 January 2023.

[546] Nauro F Campos, Fabrizio Coricelli and Luigi Moretti, 'Norwegian Rapsody? The Political Economy benefits of Regional Integration (2015) CEPR Discussion Paper No DP10653 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2619188#> accessed 6 March 2023.

Furthermore, integration fosters global peace and stability, as evident in the historical account of European integration discussed above. Regional integration would enable contracting countries, irrespective of their economic or military prowess, to interact and compete with advanced economies on international issues. Regional integration fosters shared innovation trends, technological transfer, and development, ultimately promoting national progress and development. As Feng and others rightly point out, the success of regional integration relies on contracting states' ability to adopt and respond to the agreements that define the process.[547] For instance, one issue already identified in Chapter Two of this research that hampers ECOWAS' progress is member states' reluctance to enforce ECOWAS Court decisions in national courts. This demonstrates that members who do not uphold the ECOWAS Court's decisions are not only in breach of the ECOWAS treaty but also weaken the sovereignty of the ECOWAS Court.

In essence, the success and progress of regional integration depend primarily on national governments and the extent to which they are willing to promote the collective good of all members over their national interests. This is demonstrated in the following paragraph, as one significant hurdle to regional arrangements is the prioritisation of national interests by domestic institutions and the reluctance of nation-states to relinquish any form of their sovereignty, regardless of the level of integration. The benefits of regional arrangements are enormous; however, assessing them depends on one's perspective and in-depth knowledge of regional integration schemes, their historical context, evolution, theories, and incorporation terms.

3.4.2 Weaknesses

Despite the benefits of regional integration, these initiatives continue to face ongoing challenges. As previously indicated, when weighing the advantages, there is a risk that weaker nations within the bloc could be exploited, mainly due to unresolved power imbalances that have persisted from the bloc's inception. Specific challenges may stem from the wording of the agreement that forms the bloc and from the extent of integration, which involves determining whether the

[547] Feng and Genna (n 376).

Treaty establishing the bloc is a complete or incomplete contract. As discussed in section 3.2, a regional integration scheme that constitutes a complete contract according to Laursen's definition is one that establishes supranational institutions, including a pre-established dispute resolution mechanism. This is because some regional schemes, such as ASEAN, do not have such mechanisms in place, nor are they formed in line with supranationalism. Therefore, Ausiandra argues that the ASEAN integration and its institutions are weak because the Treaty establishing the bloc is incomplete, lacking a dispute settlement mechanism in the event of a dispute or a breach of treaty obligations.[548] According to Laursen, NAFTA is a near-complete contract due to the absence of a supranational organisation.[549] Essentially, this research considers Lauren's work on treaties as contracts to be the normative position within the field of integration scholarship, owing to the concept of supranationalism in defining a comprehensive contract. This further supports the central argument of this research concerning ECOWAS integration and the role of supranational organisations in enhancing integration arrangements.

This research highlights a key challenge in regional integration: the issue of sovereignty. The main weakness discussed here relates to how state supremacy obstructs effective integration and hampers the development of regional arrangements. Issues concerning state sovereignty complicate integration efforts and interact with other factors that influence the success and progress of regional cooperation, regardless of the shared goals of the involved states. As previously mentioned, sovereignty reflects the legal authority of states being paramount over any alternative authority. Consequently, states often hesitate to relinquish their sovereignty in pursuit of national interests, even as they participate in integration efforts. For example, as previously stated, African countries have been noted for their unwillingness to relinquish sovereignty, which is why it is argued that success in African integration is not foreseeable, perhaps due to the legacy of colonialism.[550] In examining regionalism in Africa, Oliver argues that, since

[548] Ausiandra (n 455).
[549] Laursen 2010 (n 374).
[550] Forere (n 505).

colonisation, efforts at regional integration have not been successful, whereas intergovernmental cooperation among states has been successful.[551]

In concurrence with Lokulo-Sodipe and Osuntogun,[552] Forere,[553] Kayizz-Mugerwa, and others,[554] Oliver contends that supranational decision-making mechanisms are absent in the context of regional integration in Africa, even in a limited capacity.[555] For instance, Lokulo-Sodipe and Osuntogun argue that a supranational organisation like the EU could bring liberation and hope to the people of West Africa, while contending that ECOWAS functions as an intergovernmental organisation.[556] Essentially, sovereignty entails power, the exercise of will, and independence, often defined as the legal ability of the national government to make decisions free from or subjected to external restraints.[557] This is why the above authors have identified sovereignty as a significant hindrance to the success of regional integration in both developed and developing countries, due to national governments' quest to retain decision-making power.

As previously mentioned, Haas, a neofunctionalist, contends that national governments should relinquish their loyalties and expectations toward supranational institutions in regional integration efforts. This shift would empower the designated institution to make decisions on behalf of the states. However, this viewpoint is strongly opposed by supporters of intergovernmental cooperation, who contend that national governments should remain the foremost decision-makers and retain control over cross-border matters. From the intergovernmentalist perspective, European integration should focus on sharing sovereignty rather than transferring it, contrary to Haas's stance. This ongoing debate regarding the role of supranational institutions in integration highlights sovereignty as a significant hurdle to successful regional collaboration. Moreover,

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[551] Oliver Gerrit, 'Regionalism in Africa: Cooperation without Integration?' (2010) 32 (2) SRA 1, 13 <https://go-gale-com.ezproxy.lib.gla.ac.uk/ps/i.do?p=AONE&u=glasuni&id=GALE%7CA245884649&v=2.1&it=r&sid=summon> accessed 25 January 2023.

[552] Lokulo-Sodipe and Osuntogun (n 129).

[553] Forere (n 505).

[554] Kayizzi-Mugerwa and others (n 467).

[555] ibid.

[556] Lokulo-Sodipe and Osuntogun (n 129).

[557] Michelle Cini, 'Intergovernmentalism' in Michelle Cini and Nieves Pérez-Solórzano Borrangán (eds), *European Union Politics* (7th edn, Oxford University Press 2022) ch 5.

the study of intergovernmentalist demonstrates advocacy for a confederation in which sovereign states create a shared institutional framework without surrendering their independence, similar to the system in the United States.[558]

Another issue related to sovereignty in regional integration arrangements identified in this research concerns whether the Treaty establishing the bloc functions as a complete or incomplete contract. As previously noted, Laursen's analysis of regional integration schemes and the treaties establishing them as contracts is widely accepted in this research as the normative stance within integration scholarship, suggesting that if the bloc does not establish a supranational organisation, then the agreement cannot be considered complete and may therefore fail to provide full assurances to all members. Hence, given that the Treaty is deemed an incomplete contract, less powerful nations cannot be assured of equal treatment and may be susceptible to exploitation by more dominant contracting countries. In light of the necessity for equal treatment within such arrangements and in accordance with the stipulations of international law, this researcher aligns with Haas in the critical importance of establishing a central organisation to oversee these arrangements, thereby ensuring fairness among the contracting parties. Additionally, this perspective aligns with Laursen's view of a complete contract for these incorporations, with which this researcher agrees.

Building on the previous argument, this researcher argues that as global technological progress, security threats, and environmental disasters affect the world, African governments will increasingly recognise the importance of regional integration. This includes understanding the need for a supranational organisation to oversee the bloc's activities and to ensure equality and fairness among member states. The researcher asserts that if ceding a degree of sovereignty can help achieve common objectives, such as economic growth, better access to energy, lower carbon emissions, and enhanced global peace and security, then states should be encouraged to relinquish some authority in pursuit of these collective goals. Ultimately, what affects one country in the region could have a significant impact on all. For example, global warming and climate change affect everyone,

[558] ibid.

both developed and developing countries, just as the war between Russia and Ukraine influences global energy prices[559] and food supplies.[560] Additionally, Emmanuela and others argued that access to electricity could reduce poverty in developing countries.[561] Thus, integrating the energy sector in the ECOWAS sub-region could promote the development of alternative energy sources, which, in turn, may lead to increased access to electricity, thereby improving citizens' living standards.

Based on the examination of ECOWAS and its shortcomings in this research, this researcher concurs with Forere that the primary obstacle to successful regional integration in Africa is the reluctance of states to surrender their sovereignty to a supranational entity. Nevertheless, this researcher contends that Africa, particularly the ECOWAS region, has the potential to further integrate and achieve greater success. For instance, in the 1975 Treaty that established ECOWAS, member states committed to pooling their sovereignty to achieve collective benefits and share rewards.[562] As a result, ECOWAS may promote renewable energy development and energy transition by integrating its energy sector, increasing access to energy across the sub-region, and thereby improving the living standards of its people. Additionally, Forere commends ECOWAS for clearly stating in its Treaty that its aim includes establishing an economic union to raise the standard of living for its citizens and contributing to the development of an African nation Community.[563] Furthermore, creating supra-international organisations can be seen as an exercise of sovereignty and a means to enhance sovereignty for some smaller states.

[559] Mingsong Sun, Xinyuan Cao, Xuan Liu, Tingting Cao and Qirong Zhu, 'The Russia-Ukraine conflict, soaring international energy prices, and implications for global economic policies' (2024) 10 (16) Heliyon <https://www.sciencedirect.com/science/article/pii/S2405844024107438 > accessed 22 July 2025.

[560] Faqin Lin, Xuecao Li, Ningyuan Jia, Fan Feng, Hai Huang, Jianxi Huang, Shenggen Fan, Philippe Ciais and Xiao-Peng Song, 'The impact of Russia-Ukraine conflict on global food security' (2023) 23 GFS <https://www.sciencedirect.com/science/article/abs/pii/S2211912422000517 > accessed 22 July 2025.

[561] Emmanuela and others (n 184).

[562] ECOWAS Treaty 1975 (n 10) preamble paras 9, 10.

[563]Forere (n 505).

In all, a close study of neofunctionalist and intergovernmentalist ideas of integration demonstrates that the major hindrance to regional integration is sovereignty, as it concerns the supremacy of states' authority to make decisions in international discussions, requiring states to relinquish their international decision-making power to a supranational organisation in the name of integration. This is what scholars like Hoffmann frown at in the establishment of integration schemes. Therefore, intergovernmentalists argue that states should maintain such international bargaining power, especially to promote their national interests. Having examined the strengths and weaknesses of regional integration, the following section applies the discussion above to regional arrangements in ECOWAS. This enabled this researcher to understand the nature and context of ECOWAS integration, including the possibility of further integrating it to promote the energy transition and renewable energy development in the sub-region.

3.5 Further Analysis of the ECOWAS Integration

In principle, considering the treaty establishing ECOWAS and its current institutional framework, this research argues that the ECOWAS treaty is a quasi-contract because it contains elements of both complete and incomplete contracts. This is because the ECOWAS treaty, like the EU, pre-establishes a dispute-resolution mechanism: the ECOWAS Court. In contrast, it is similar to NAFTA in that it does not create a supranational institution, thereby adopting an intergovernmental approach to regionalism. In principle, the ECOWAS treaty is a comprehensive treaty, similar to the EU, establishing the ECOWAS Court and the ECOWAS Commission. Nevertheless, this research contends that the ECOWAS Court and Commission are not fully functional. The AU recognises eight regional organisations on the continent of Africa, and ECOWAS is considered the most successful case of integration on the continent.[564] However, this does not mean that ECOWAS integration is successful across the board and meets all the standards of successful integration as recorded by the EU. With this in mind, the following sub-sections critically examine the ECOWAS integration, without necessarily recounting its origins, as the historical background and origins of ECOWAS have been presented in detail in Chapter Two of this research. However, reference is

[564] ibid.

made to its origins, where such an allusion is necessary for the understanding of the issues raised in this subsection.

3.5.1 An Assessment of the ECOWAS Integration

To begin with, the ECOWAS assessment in this section is divided into three phases. First, it considers whether the treaty establishing ECOWAS constitutes a complete contract, and why this research views it as a quasi-contract, with an intergovernmental approach. Second, it examines how the ECOWAS treaty can enhance regional integration. Finally, it considers how ECOWAS could resolve issues of sovereignty with its contracting states to effectively and independently represent the states in international discussions on environment, energy access, security, supply and affordability. These questions are addressed using the concept of integration as formulated by Haas and Lindberg above, including the different views and interpretations of the treaty as a complete or incomplete contract noted earlier, with a focus on the elements of a complete contract.

First, considering the treaty establishing ECOWAS as a contract, as outlined by Cooley and Spruyt, Laursen, and Ausiandra, and after a thorough examination, this research contends that the ECOWAS treaty is a quasi-contract. In other words, the treaty establishing ECOWAS created institutions to manage the bloc's arrangements, without a supranational entity. Thus, the absence of a supranational entity in the ECOWAS arrangement leads this research to argue that ECOWAS employs an intergovernmental approach to integration. For example, as discussed in Chapter Two, Section 2.4 of this research, the ECOWAS is headed by the president of a member state at one time; in contrast, the EU is not headed by a single member state at any given time.

In addressing the region's energy issues, this research finds that intergovernmental arrangements may not be adequate due to likely interference from domestic laws and policies, as well as the notably unequal power balance within ECOWAS. Furthermore, this research argues that contrary to the view of Cooley and Spruyt, the role and essence of a supranational institution in addressing energy issues in the ECOWAS sub-region cannot be overstated. The treaty also established an independent Community Court of Justice, tasked with adjudicating all disputes

related to the interpretation and application of the ECOWAS Treaty, as well as failures by members to adhere to their treaty obligations.[565] However, Section 2.4 above shows that member states have failed to enforce the ECOWAS Court's decision. This is why this research concurs with Laursen that a complete contract in the context of a treaty should not only create dispute settlement mechanisms but also establish a supranational institution to make the contract complete, not merely nearly complete.

Additionally, the ECOWAS treaty being a complete contract can be in principle not practice because one can argue that if the ECOWAS is indeed established as a complete contract why are its treaty obligations not adhered to by members, why are the members not enforcing the decisions of the ECOWAS Court of Justice as noted in chapter one of this research, and finally, what has the Court of Justice done to states not implementing the Court's decisions? At the end of this current research, there should be a clear answer to these questions. Although the ECOWAS treaty purports to be a complete contract, there remain uncertainties about its completeness in practice. This, as argued, is due partly to the fact that some member states do not enforce ECOWAS Court of Justice decisions in their domestic courts, still upholding the supremacy of domestic institutions, as exemplified by Nigeria.[566] Invariably, this might affect the ECOWAS institution's capacity to represent the bloc equitably and fairly, as contemplated by the members in the 1993 Revised Treaty.

Second, ECOWAS' efforts to expand its integration in areas such as energy and the environment remain challenging because its institutions have not yet been granted the authority to make binding decisions for its members. When examining ECOWAS integration, it becomes clear why some authors, such as Forere, have argued that the spillover concept in integration is not well-suited to African integration.[567] However, it is important to note that ECOWAS has attempted to strengthen its integration framework but has reportedly failed due to member states' sovereignty.[568] This issue of sovereignty, discussed in detail in Chapter Two above,

[565] ibid art 15.
[566] Ukaigwe (n 229) 70, 100.
[567] Forere (n 505).
[568] Lokulo-Sodipe and Osuntogun (n 129).

poses a significant obstacle. Not all ECOWAS countries, especially the stronger ones, are willing to relinquish their sovereignty to ECOWAS institutions. Some still regard domestic decision-making as superior to ECOWAS decision-making. This remains a significant hindrance to regional integration. Nonetheless, an analysis of ECOWAS thirty years after its founding shows that its integration initiatives have been mainly unsuccessful due to its intergovernmental framework.[569]

In response, ECOWAS established a committee to evaluate its organisational structure and make recommendations.[570] The main proposal from the Committee of Eminent Persons (CEP) suggested that ECOWAS should transition from an intergovernmental model to the creation of a supranational institution, rather than merely modifying its existing intergovernmental arrangements.[571] However, the CEP recommendation led to the ECOWAS revised treaty of 1993, which remains an intergovernmental treaty.[572] Accordingly, this research argues that ECOWAS could indeed strengthen its integration by applying the spillover concept to expand its integration in relation to renewable energy and energy transition issues.

Third, this research argues that ECOWAS could advance its integration, irrespective of national interference, especially in the energy sector, to increase access to electricity in the sub-region. This is because, following the ECOWAS treaty, which is legally binding, the members cede their sovereignty to the centre (ECOWAS) for the common interest.[573] Accordingly, the energy issue remains a common and important concern for regional integration schemes, as its development and use raise environmental and economic concerns. For instance, Emmaunela and others argue that increased access to electricity in developing countries can lead to economic growth.[574] Furthermore, this researcher argues that there is room for improvement in advancing ECOWAS integration. For instance, there could be a supplementary treaty, such as NAFTA, referred to above, or a supplementary treaty/protocol that can further ECOWAS integration

[569] Kufour (n 126).
[570] ibid.
[571] ibid.
[572] Lokulo-Sodipe and Osuntogun (n 129).
[573] ECOWAS Treaty 1993 (n 11) preamble para 15.
[574] Emmanuela and others (n 184).

to address other matters, such as energy, which would be beneficial to members because energy is a basic necessity.

Finally, on sovereignty and how the problem can be resolved. As discussed, agitation for state sovereignty in the context of integration remains a primary challenge to the success and furtherance of integration schemes. This research identifies sovereignty as a significant hurdle to regional integration, stemming from nation-states' unwillingness to transfer their legislative authority and decision-making powers to a supranational authority. Therefore, scholars like Hoffman argue for an integration in which states do not have to transfer their legal authority to a central authority. To this end, and as noted above, the proponents of intergovernmental cooperation claim that states should retain their decision-making power in international relations.[575] Nevertheless, in the case of ECOWAS, regarding renewable energy development and the energy transition, this research argues that cooperation and collaboration remain the key to addressing such common issues. Therefore, delegating decision-making to a neutral entity demonstrates commitment and credibility to the contracting parties.

To address sovereignty issues in the ECOWAS context, this researcher argues that ECOWAS can strengthen its integration despite the problems discussed above. This is because the ECOWAS treaty, although described as quasi-contract in this research, also has elements of a complete contract and therefore, is binding on the contracting countries. For example, in the treaty establishing ECOWAS, its members agreed to surrender some of their national sovereignty to achieve a common goal.[576] Furthermore, in Chapter Two, a close reading of the ECOWAS Treaty demonstrates that it established an independent Court of Justice responsible for ensuring that member countries comply with their treaty obligations and for the application and interpretation of the treaty. Therefore, measures could be in place to sanction member countries that breach the treaty obligations. As noted, the treaty is a contract, so it is binding on its members to the extent a contract can bind the parties. For example, if the ECOWAS sets emission targets for its oil-producing countries, members who default should be

[575] Cooley and Spruyt (n 381).
[576] ECOWAS Treaty 1993 (n 11) art 3.

penalised. Accordingly, member states should be bound by the treaty obligations, including domesticating regional laws and policies when required, and upholding the supremacy of the ECOWAS Court of Justice.

3.6 Conclusion

In summary, this researcher argues that regional integration represents an effective strategy for nations to achieve common objectives, particularly in energy matters. A treaty-driven integration that establishes a supranational organisation and incorporates a transparent dispute resolution process would be advantageous. Further, this research asserts that such an arrangement could deter member states from violating treaty obligations and prevent more powerful nations within the bloc from exploiting weaker ones. Consequently, establishing a supranational body could ensure equitable treatment and justice for all members. Moreover, in light of Haas' insights on integration, Chapters Four and Five of this research offer critical analyses of the integration of ECOWAS and the European Union, respectively. Essentially, Chapters Four and Five focus on the legal frameworks governing renewable energy development and energy transition, aiming to derive valuable lessons for ECOWAS and its member states.

CHAPTER FOUR

CRITICAL ASSESSMENT OF THE ECOWAS RENEWABLE ENERGY DEVELOPMENT LEGAL FRAMEWORK CONCERNING THE IMPACT OF REGIONAL INTEGRATION

4.1 Introduction

The International Renewable Energy Agency (IRENA), in its 2023 Renewable Energy Annual Review, affirmed that current global energy structures are designed to support fossil fuels and must be redesigned to support renewable energy systems.[577] This assertion supports the aim of this research, which is to evaluate ECOWAS' existing legal framework for renewable energy, thereby advocating for the development of renewable energy and energy transition within ECOWAS. Renewable energy, climate change, and energy transition issues are global challenges affecting both high-income and low-income countries. Therefore, responses to these challenges are expected to be managed at international, continental, regional, and national levels. However, the current research focuses on regional and national measures to address these global energy and climate challenges. This is accomplished by assessing the impact of ECOWAS regional integration on efforts to tackle these issues.

Chapter Three of this research conducted a comprehensive assessment of regional integration to evaluate its potential as an instrument for developing renewable energy and the transition of the energy sector within the ECOWAS sub-region. The examination of regional integration frameworks in Chapter Three revealed deficiencies in ECOWAS' governance structure and institutional framework. Consequently, this chapter argues that the identified shortcomings in ECOWAS integration may impede cooperation, alignment, and harmonisation of the ECOWAS renewable energy legal framework at both national and regional levels. Thus, this chapter assesses the potential of the ECOWAS legal framework to facilitate renewable energy cooperation amid challenges, including differences among states in their reliance on fossil-fuel models, resources, and legal and political cultures. It identifies and evaluates the reasons why states disagree on

[577] International Renewable Energy Agency, 'Renewable energy and jobs: Annual review 2023' (2023) 77, 88 <https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_895772.pdf> assessed 18 August 2025.

binding legislation, as well as the frameworks that legally bind and encourage compliance and change. This objective is achieved by reviewing the legal framework on renewable energy and analysing its influence on national and regional renewable energy laws and policies. Additionally, this chapter assesses ECOWAS' initiatives in renewable energy and energy efficiency, including their repercussions for the national renewable energy legal frameworks of Nigeria, Ghana, and Liberia. Finally, before concluding, this chapter outlines the challenges facing renewable energy development and the energy transition within the ECOWAS integration model, and its implications for existing renewable energy laws and policies at both national and regional levels.

4.2 Regional Integration as a Catalyst for the Development of Renewable Energy and Energy Transition

This section reinforces the implications of the ECOWAS governance structure - discussed in detail in Chapter Two - to the ECOWAS renewable energy legal and policy framework. Therefore, this section places the ECOWAS legal regime discussed in Chapter Two in context to demonstrate the effect of the ECOWAS framework on renewable energy development and energy transition, because Chapter Two is merely a review of the history and background of the ECOWAS integration and its legal framework. The idea of exploring regional arrangements to address climate change, energy transition, and renewable energy development remains a topic of interest to scholars of regionalism. For instance, Hancock describes energy regionalism as formal or informal institutions, such as organisations, structures, and rules, that focus on energy matters and involve three or more states within the same region.[578] At the same time, Johnson and Deveer view EU energy governance as a form of energy regionalism, given the EU-wide energy policies aimed at promoting energy efficiency and reducing greenhouse gas emissions.[579] Therefore, the importance of regional integration in addressing the energy challenges facing the ECOWAS sub-region cannot be underestimated. Furthermore, in assessing energy regionalism and diffusion in

[578] Kathleen J Hancock, 'Electric regionalism: path dependence, development, and the African power pools' (2023) 41(2) RPR 347, 368 <https://onlinelibrary.wiley.com/doi/epdf/10.1111/ropr.12561 > accessed 31 July 2025.
[579] Corey Johnson and Stacy D Vandeveer, 'Energy Regionalism and Theory in Practice' (2021) 41(2) RPR 290,309 < https://onlinelibrary.wiley.com/doi/epdf/10.1111/ropr.12422 > accessed 31 July 2025.

West Africa, Hancock contends that most scholars analysing the global response to climate change and renewable energy focus on the role of intergovernmental and non-intergovernmental organisations, summits, and treaties.[580] Thus, Hancock argues that the significance of regional integration in tackling climate change and renewable energy issues remains underexplored.[581] Hailes and others also contend that international law and organisations serve as the global institutional mechanisms for making energy decisions that are typically made at national and regional levels.[582]

The importance of national and regional arrangements for renewable energy development and energy transition is apparent in the arguments of both Hancock and Hailes. These arguments support the aim of this research, which is to critically assess how regional integration could promote renewable energy and energy transition at both national and regional levels. However, as previously discussed in Chapter Three, although regional integration can foster support and advance renewable energy and the energy transition, its success largely depends on the characteristics of these regional arrangements, including alignment with national legislation. For instance, Eze and others, in their 'Assessment of ECOWAS Renewable Energy Policies and Development Projects,' argue that a significant obstacle to advancing renewable energy in ECOWAS lies in the lack of clear policy frameworks, institutional structures, and effective implementation mechanisms.[583] Therefore, after analysing the EU and ECOWAS approaches to regional integration, this research argues that the challenges identified by Eze and others originate from the ECOWAS model, which is discussed in detail in Chapter Three. Nevertheless, because this is doctrinal research, this chapter assesses the ECOWAS legal framework to demonstrate how the ECOWAS approach

[580] Hancock 2015 (n 137).
[581] ibid.
[582] Oliver Hailes and Jorge EViñuales, 'The energy transition at a critical juncture' (2023) 26 (4) JIEL 627, 648 <https://academic.oup.com/jiel/article/26/4/627/7486688?login=true#436495796 > assessed 8 June 2024.
[583] Nnaji Chibueze Eze, Akubue Gerald Ugwu, Nnaji Moses and Eze Afamefuna Angus, 'Assessment of ECOWAS Renewable Energy Policies and Development Projects: Progress, Successes, and Challenges' (2025) 19(1) AJESRE 124, 145 < https://afropolitanjournals.com/index.php/ajesre/article/view/863/671 > accessed 31 July 2025.

has impacted its renewable energy development and energy transition frameworks in the sub-region.

Moreover, this research perspective on leveraging the integration framework to foster renewable energy development and the energy transition in the ECOWAS sub-region aligns with Article 3 of the ECOWAS 1993 treaty, which aims to promote cooperation and integration that, among other objectives, improve the living standards of its citizenry.[584] Consequently, this researcher argues that with the relevant legal framework supporting renewable energy development and facilitating the transition from fossil fuels to renewable energy sources, the ECOWAS may achieve its objectives as stipulated in the ECOWAS treaty and its renewable energy Policies. This is because issues concerning renewable energy and the energy transition are of global importance, and tackling these challenges requires significant resources, expertise, financial backing, relevant technologies, and collaboration.

Therefore, a collective effort is essential to address these issues. For instance, in 2023, the IRENA highlighted the impact of energy poverty in West Africa while also noting that the region has vast renewable energy potential that, if collectively harnessed, could help address the energy crisis.[585] Additionally, Nalule argue that the level of poverty in Africa could be attributed to energy challenges and a lack of access to electricity.[586] Furthermore, a 2015 report by the ECREEE highlights that the region possesses significant untapped renewable energy resources that, if utilised effectively, could satisfy a large share of its energy needs while promoting employment, industrial growth, and climate action.

However, the assessment of regional integration and the different approaches to integration arrangements between countries in Chapter Three demonstrates that the ECOWAS integration model differs from the EU integration model. This is because the ECOWAS approach to integration is intergovernmental, whereas the

[584] ECOWAS Treaty 1993 (n 11).
[585] International Renewable Energy Agency, 'Scaling up Renewable Energy for Africa' (2023) IRENA Coalition Action <https://www.irena.org/Publications/2023/Oct/Scaling-up-renewable-energy-investments-in-West-Africa > assessed 22 February 2024.
[586] Victoria R Nalule, *Energy Poverty and Access Challenges in Sub-Saharan Africa: The Role of Regionalism* (Palgrave Macmillan 2019) ch 1.

EU integration, from its inception, established a supranational Organisation (High Authority) that independently manages the countries' affairs.[587] Essentially, the EU framework established a neutral, third-party organisation to oversee the Union's affairs, intended to be free from domestic politics and influence. In contrast, the analysis of the Treaty establishing ECOWAS indicates that ECOWAS was not founded upon the principles of supranationalism. This is why this researcher contends that ECOWAS was established as a cooperative arrangement among states, rather than as a means to achieve regional integration through a supranational entity. Additionally, in analysing the ECOWAS institutions alongside other regional institutions with related attributes, Hancock argues that ECOWAS is an intergovernmental institution.[588] Moreover, ECOWAS is headed by the president of one member state at a time, which may raise questions about the democratic nature of the ECOWAS institution.

In contrast, as demonstrated in Chapter Three, the EU's core institutions are established to operate independently, free from domestic influence. For instance, the treaty requires Commission members to avoid actions incompatible with their duties, and member states must respect the Commission's independence and refrain from interfering with the Commission's work.[589] Furthermore, the treaty stipulates that the judges of the Court of Justice of the EU must be persons whose independence is beyond doubt.[590] Laurence and Slaughter characterise the EU's adjudication as a notable and unforeseen achievement of supranational legal processes.[591] However, Pavel argues that supranational institutions diminish state sovereignty.[592] Nevertheless, this research contends that the creation of supranational entities causes the EU to exhibit more characteristics of a

[587] The Treaty Establishing the European Coal and Steel Community (1951); Marios Costa and Steve Peers, 'From EEC to EU: A Brief History of the Development of the Union' in *Steiner and Woods EU Law* (15th edn, Oxford University Press 2023) ch 1.
[588] Hancock 2015 (n 137).
[589] TEFU (n 23) 246.
[590] ibid arts 253, 254.
[591] Laurence R Helfer and Anne-Marie Slaughter, 'Toward a Theory of Effective Supranational Adjudication' (1997) 107 YLJ 273, 292 <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=2659&context=faculty_scholarship > accessed 30 July 2025.
[592] Carmen E Pavel, 'The European Union and diminished state sovereignty' (2022) 25(4) RISPP 596, 603 <https://www.tandfonline.com/doi/full/10.1080/13698230.2022.2042956 > accessed 30 July 2025.

democratic institution than ECOWAS when compared to it. Accordingly, the independence of the EU's institutions is demonstrated by the inherent safeguards against political direction, such as structural protections in place to ensure autonomy and impartiality.[593] In this regard, to prevent domestic political interference, officials such as judges and commissioners are assigned fixed terms of office; a merit-based and transparent appointment process that reduces political patronage; legal autonomy; budgetary independence that precludes the utilisation of funding as leverage; and procedural regulations that require decisions to be based on evidence rather than political influence preferences.[594] Therefore, EU institutions such as the Commission or the Court of Justice of the EU have safeguards to prevent member states or the European Council from exerting political pressure on decision-making.[595]

Again, in analysing the EU and how it was established and has been managed to date, the EU institutions and their decision-making processes may be independent from domestic influence. This independence from domestic politics and influence in the EU's model of regional integration is what this researcher argues gives relatively minor countries in the bloc confidence and trust in the organisation, [596] which is not the case for ECOWAS. For example, the implementation and enforcement of ECOWAS law often depend on national authorities, where political will varies.[597] Furthermore, unlike the EU's Commission, the ECOWAS Commission's independence can be constrained by its budgetary reliance on

[593] Paul Craig, Stanislas Adam, Nuria Diaz Abad and Lorenzo Salazar, 'Rule of Law in Europe Perspectives From Practitioners and Academics' (2019) EJTN ch 1 <https://ejtn.eu/wp-content/uploads/2022/12/2019-056-RoL-Manual-170x240-WEB_FINAL.pdf> accessed 13 July 2025.

[594] ibid.

[595] Maria Diaz Crego, Rafał Mańko and Wouter van Ballegooij, 'Protecting EU common values within the Member: State An overview of monitoring, prevention and enforcement mechanisms at EU level' (2020) EPRS <https://www.europarl.europa.eu/RegData/etudes/STUD/2020/652088/EPRS_STU(2020)652088_EN.pdf> accessed 1 July 2025.

[596] Rosa Balfour and Sinan Ülgen, 'Goepolitics and Economic Statecraft in the European Union' (2024) CEIP 1, 7 < https://carnegie-production-assets.s3.amazonaws.com/static/files/Geopolitics%20and%20Economic%20Statecraft%20in%20the%20European%20Union-2.pdf > accessed 13 July 2025.

[597] Victor Nonso Enebeli and Edwyn Jonathan, 'The Burden of Enforcing ECOWAS Court Judgement in Member States: Lessons from The European Court of Justice' (2024) 142 JLPG <https://www.iiste.org/Journals/index.php/JLPG/article/viewFile/62627/64691> accessed 13 July 2025.

member states and the dominance of intergovernmental decision-making at the political level.[598] Lokulo-Sodipe and Osuntogun argue that ECOWAS member states hold significant influence through political bodies such as the Authority of Heads of State and Government and the Council of Ministers.[599] Nonetheless, the authors contend that, in principle, specific organs, including the ECOWAS Court of Justice and, to a lesser extent, the ECOWAS Commission, are protected from domestic political interference; thereby identifying the safeguards within ECOWAS as the ECOWAS Court of Justice and the ECOWAS Commission.[600]

Although ECOWAS Member States hold significant influence through political bodies like the Authority of Heads of State and Government and the Council of Ministers, some organs, including the ECOWAS Court of Justice and, to a lesser degree, the ECOWAS Commission, are institutionalised to shield them from daily political management. However, it may be challenging to determine how a president of a member state, who also heads ECOWAS as the 'Chairman of the Authority of ECOWAS Heads of State and Government,' would make decisions at the regional level that are free from national interests. This further illustrates the differences between the ECOWAS governance structure and the EU, stemming from the distinct integration models of the two organisations. Therefore, it is argued that domestic policies may influence ECOWAS decision-making and institutions, thereby prioritising national concerns, laws, and policies over those of ECOWAS, raising questions about the credibility of ECOWAS institutions. For instance, regarding the ECOWAS Authority and the withdrawal of Burkina Faso, Mali, and Niger from ECOWAS, Okanla characterised the organisation as a 'union of presidents' predominantly centred on mutual benefits rather than prioritising the needs of West Africa.[601]

[598] Francess Virginia Anderson, 'ECOWAS at 50: A Diplomatic Evaluation of ECOWAS at 50: A Diplomatic Evaluation of Successes, Challenges, and Regional Integration' (2025) IRPJ <https://irpj.euclid.int/articles/ecowas-at-50-a-diplomatic-evaluation-of-successes-challenges-and-regional-integration/> accessed 3 July 2025.
[599] Lokulo-Sodipe and Osuntogun (n 129).
[600] ibid.
[601] Karim Okanla, 'Exit ECOWAS' (*Development and Cooperation*, 20 February 2024) < https://www.dandc.eu/en/article/28-january-military-regimes-mali-burkina-faso-and-niger-withdrew-economic-community-west > accessed 12 May 2025.

Adebajo argued that the overlapping responsibilities in regional organisations often lead to what is described as 'dual loyalties dilemmas' in regional leadership positions.[602] In other words, the Chairman can subtly shape the timing, tone, and urgency of regional actions. Nonetheless, the institutional framework of ECOWAS anticipates such challenges and establishes checks and balances, including the independent ECOWAS Commission, the Community Court of Justice, and a collective decision-making process.[603] However, examples such as the divergent responses of ECOWAS to crises in The Gambia (2016) and Mali (2020–21) demonstrate that national loyalties can occasionally overshadow regional unity, particularly in politically sensitive matters or when strategic alliances are at stake.[604] This research suggests that it may be challenging for ECOWAS institutions to enact laws and policies that have both national and regional binding force, similar to those of the EU institutions. Moreover, ECOWAS members may be expected to place national interests before regional ones. This is implied by ECOWAS being headed by the President of one member state at a time, as a country's president is expected to prioritise national interests.

Essentially, in line with the EU's integration model, the crucial importance of supranational institutions must not be overlooked, particularly when states differ in their economic and social progress. Thus, this research argues that a regional integration scheme managed by a supranational organisation might gain the trust and confidence of relatively minor countries in the bloc due to its democratic principles. Consequently, member states may uphold the organisation's laws and policies by granting them domestic legal force. Accordingly, Chapter Five provides a thorough analysis of how the EU integration model supports the EU's national and regional legal framework in promoting renewable energy, energy transition, and its significance for ECOWAS' renewable energy policy initiatives. However, alongside the critical analysis of the ECOWAS renewable energy and energy transition legal framework, and the impact of ECOWAS integration on national and

[602] Adekeye Adebajo, 'The Curse of Berlin: Africa After the Cold War' (2023) 54 (2) AHR 82,91 < https://www.tandfonline.com/doi/epdf/10.1080/17532523.2024.2330222?needAccess=true > accessed 12 May 2025.
[603] ECOWAS Protocol on Democracy and Good Governance, Supplementary to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security 2001, art 8.
[604] ECOWAS Commission, *Final Communiqué on the 50th Ordinary Session of the ECOWAS Authority of Heads of State and Government* (17 December 2016) https://www.ecowas.int accessed 20 April 2025.

regional frameworks that support renewable energy development and the energy transition, this researcher also considers it valuable to examine the current energy mix, sources, and electricity access ratio of ECOWAS countries to further illustrate the effects of cooperation and collaboration on issues of energy access, security, and affordability, especially for growing economies.

4.3 A Review of the ECOWAS Renewable Energy and Energy Transition Legal Framework

Undoubtedly, ECOWAS, like the EU, has implemented laws and policies to tackle energy issues within the ECOWAS sub-region. However, this research focuses on the effects of some of these laws and policies on renewable energy development and energy transition frameworks in the ECOWAS sub-region. This research analysis focuses on the ECOWAS Energy Protocol of 2003, the West African Power Pool,[605] the ECOWAS Regional Electricity Regulation Act,[606] the West African Gas Pipeline Agreement,[607] the ECREEE,[608] the ECOWAS Renewable Energy and Energy Efficiency Policies,[609] as well as National Renewable Energy Action Plans.[610] These laws, policies, and institutions were utilised to critically evaluate the ECOWAS renewable energy development and energy transition legal framework, demonstrating the impact of the ECOWAS approach to regional integration on both the domestic and regional frameworks.

[605] West African Power Pool, 'Creation of WAPP' <https://www.ecowapp.org/en/content/creation-wapp > assessed 13 March 2024.
[606] ECOWAS, 'ECOWAS Regional Electricity Regulatory Authority (ERERA)' <https://www.ecowas.int/special_agency/ecowas-regional-electricity-regulatory-authority-erera/ > assessed 13 March 2024.
[607] West African Gas Pipeline Authority, 'About Us' < https://www.wagpa.org/about-us/ > accessed 12 May 2025.
[608] ECREEE (n 26).
[609] ECOWAS, *ECOWAS Renewable Energy Policy* (2013) < https://www.ecreee.org/wp-admin/admin-ajax.php?juwpfisadmin=false&action=wpfd&task=file.download&wpfd_category_id=97&wpfd_file_id=17438&token=&preview=1>; ECOWAS, *ECOWAS Energy Efficiency Policy* (2013) < https://www.ecreee.org/wp-admin/admin-ajax.php?juwpfisadmin=false&action=wpfd&task=file.download&wpfd_category_id=97&wpfd_file_id=17434&token=&preview=1 > accessed 5 August.
[610] ECREEE, *ECOWAS National Renewable Energy Action Plans* (2013) <https://www.ecreee.org/11994/ > accessed 5 July 2025.

4.3.1 Legislation

The ECOWAS 2003 Energy Protocol is the primary energy legislation of ECOWAS. However, the ECOWAS treaty also addresses energy, including coordinating and harmonising energy policies and programmes, as well as promoting and developing renewable energy sources.[611] The Protocol is binding on all member states under the ECOWAS legal regime. The review of ECOWAS sources of law in Chapter Two demonstrates that a Protocol is binding to the same extent as the ECOWAS Treaty.[612] Consequently, under the ECOWAS Treaty, regional renewable energy policies and laws are legally binding on ECOWAS members.[613] However, despite the treaty and protocol provisions calling for the harmonisation and coordination of renewable energy policies and programmes, the analysis of Nigeria, Ghana, and Liberia's renewable energy laws and policies reveals that the ECOWAS legal framework has limited domestic impact, as demonstrated in Section 4.5. Essentially, the ECOWAS Energy Protocol was enacted ten years after the 1993 Revised Treaty as the primary legislation of ECOWAS to address its energy issues.

Essentially, through the Treaty provision and Energy Protocol, ECOWAS aims to promote long-term cooperation in the energy sector, ensuring efficient and reliable electricity supplies for its citizens and mutually benefiting from energy investment and trade.[614] Specifically, the Protocol addresses energy issues broadly, not limited to renewable energy. Notably, the treaty and protocol are the binding law of ECOWAS concerning energy matters. Under the ECOWAS Treaty, a Protocol holds the same legal weight as the Treaty itself.[615] Therefore, the Energy Protocol binds all signatories to the ECOWAS Treaty. It is binding because the ECOWAS Treaty provides that its Protocols have the same binding effect as the Treaty itself, as stated in Article 9.[616]

Consequently, a breach of its provisions would be actionable in the ECOWAS court. The Treaty also outlined dispute-resolution mechanisms, allowing disputants to refer their disputes to the International Centre for Settlement of Investment

[611] ECOWAS Treaty 1993 (n 11) arts 3, 28.
[612] ibid art 1.
[613] ibid.
[614] ECOWAS Energy Protocol 2003, art 2.
[615] ECOWAS Treaty 1993 (n 11) art 1.
[616] ibid.

Disputes (ICSID).[617] However, as of the current research, there is no known record of any challenge to the provisions of the Energy Protocol. Additionally, Article 6(2) states that all ECOWAS institutions shall perform their functions within the powers conferred by the Treaty and all resulting Protocols, including the 2003 Energy Protocol.[618] Accordingly, this research finds that all existing energy and renewable energy policies and initiatives of ECOWAS were enacted under the auspices of the Energy Protocol.

In terms of promoting renewable energy and energy efficiency, this research argues that the ECOWAS Treaty and Energy Protocol play a relatively minor role in the associated regulatory regime. This is expected because renewable energy and energy transition topics are still emerging and relatively new, with technologies remaining expensive compared to fossil fuels. Nevertheless, the provisions of both legislations suggest prospects for supporting and developing renewable energy and energy transition in the sub-region. For instance, Energy Protocol states that members should improve energy efficiency by developing and utilising energy from renewable sources, promoting cleaner fuels, and using relevant technologies to reduce pollution.[619] While Article 28 of the 1993 ECOWAS Treaty is dedicated to energy, it specifically addresses the need for coordination and harmonisation of policies and programmes in the energy sector.

Furthermore, Article 49 states that members should establish energy efficiency policies within appropriate legal and regulatory frameworks to promote these measures.[620] Moreover, under Article 43, member states have committed to assisting one another in developing and implementing energy efficiency laws, policies, and regulations.[621] This requires cooperation between national and regional energy sectors to jointly promote the research and development of renewable energy sources. However, as noted in *Table 5 below*, not all ECOWAS members possess oil and gas resources, and those who do often prefer to sell their

[617] ECOWAS Energy Protocol (n 614) art 26.
[618] ibid.
[619] ibid art 19(1)(d).
[620] ibid.
[621] ibid.

products to countries outside the ECOWAS region.[622] Therefore, collaboration among members is crucial, especially considering the electricity access ratio for both producing and non-producing members, as well as the urgent need for increased access to electricity, energy security, supply, and affordability in the sub-region.

Accordingly, to promote access to energy within its member states, in accordance with the Energy Protocol and the powers conferred by the ECOWAS Treaty, the ECOWAS has established specialised institutions, policies and initiatives to address its energy challenges. These include the WAPP, established to promote the transmission of electricity and integrate and unify the electricity market within ECOWAS member states,[623] and the ECOWAS Regional Electricity Regulatory Authority (ERERA), created as a regulatory body to manage the WAPP agreement.[624] Fundamentally, ERERA's primary purpose was to monitor and ensure the regulation of interstate electricity transactions and to give necessary support to national regulatory bodies.[625] However, the primary ECOWAS body for renewable energy is the ECREEE, which was established to primarily address ECOWAS' renewable energy and energy efficiency issues by promoting the use and development of clean energy sources.[626] Nevertheless, a close examination of the ECOWAS energy sector in this research reveals that, in principle, WAPP and ERERA were established to promote energy access mainly through oil and gas. At the same time, ECREEE is responsible for managing ECOWAS' renewable energy, energy efficiency, energy transition, and climate mitigation issues. Arguably, this grants WAPP and ERERA significantly more legal authority compared to ECREEE, as further discussed in the section below, due to the region's overt reliance on oil and gas for power.[627]

[622] ECOWAS Directorate for Energy and Mines, 'ECOWAS Key Energy Facts and Figures' (2024) 121, 131 <https://www.ecowas.int/wp-content/uploads/2024/11/ECOWAS-ENERGY-OUTLOOK-2024-VF.pdf> assessed 4 August 2025.
[623] WAPP (n 605).
[624] ERERA (n 606).
[625] ibid.
[626] ECREEE (n 26).
[627] ECOWAS Energy Outlook, 'focus on biomass energy' (2024) 19, 22 <https://www.ecowas.int/wp-content/uploads/2024/11/ECOWAS-ENERGY-OUTLOOK-2024-VF.pdf > accessed 31 July 2024.

In summary, it can be argued that the Energy Protocol and the establishment of the aforementioned institutions demonstrate ECOWAS' efforts to ensure its legal framework supports the development of West Africa's abundant renewable energy resources. However, since the ECOWAS Energy Protocol failed to address renewable energy development and energy transition issues adequately, this research contends that the energy protocol aims to encourage member states to promote energy from renewable sources, and consequently, to improve electricity access and distribution through oil and gas, which continues to underpin the region's reliance on fossil fuels. For example, the Energy Protocol contains 45 Articles, yet renewable energy is mentioned only once in Article 19 (1)(d). Moreover, this shortcoming in the law may partly explain the deficiencies in the Energy Protocol regarding the promotion of renewable energy development in the region, despite the significant renewable energy potential highlighted by IRENA above. However, as discussed in the upcoming sections of this chapter, the extent to which the ECOWAS legal framework has succeeded in increasing energy access for its citizens appears inconsistent with the electricity access rates among its members. However, despite inconsistencies and limitations in the ECOWAS legal framework, this research argues that there remains potential to develop a more comprehensive legal framework or to strategically utilise the current framework to achieve these goals.

4.3.2 Policies and Institutions

As noted in Chapter Two of this research, ECOWAS is primarily a political arrangement. It was established in the West African sub-region to collectively address the political, economic, and social effects of colonialism while promoting economic and social development through regional integration. To achieve its objectives, ECOWAS established various regional institutions to address its political, economic, and social challenges at both the regional and national levels. Consequently, in addition to ECREEE, ECOWAS has established other specialised institutions with policies to meet its energy needs. Therefore, alongside ECREEE, this section also examines other organisations, such as the WAPP and ERERA, which were also established to address energy issues in the sub-region.

4.3.2.1 Examination of the ECOWAS Centre for Renewable Energy and Energy Efficiency

The ECREEE is one of the specialised institutions of the ECOWAS, established in 2007 through the Ouagadougou Declaration to manage ECOWAS' renewable energy and energy efficiency matters, particularly and independently, at both regional and national levels.[628] Accordingly, at the 61st Session of the ECOWAS Council of Ministers, the members adopted Regulation C/REG.23/11/08 to give the ECREEE the relevant legal basis to carry out its responsibilities independently.[629] Nevertheless, Hancock, in evaluating ECREEE, argues that although ECREEE has the potential to become a significant regional institution and has implemented various policies and initiatives related to renewable energy and the energy transition within the region, its overall effectiveness remains uncertain.[630] Hancock suggests that external regional actors, including Austria, Brazil, Spain, UNIDO, and Irene Giner-Reichle, a political entrepreneur from the Austrian Government, established ECREEE.[631] At the same time, members of ECOWAS were encouraged to accept ECREEE mainly because of the funding and technical assistance it would provide to the region for renewable energy development and the energy transition.[632] Furthermore, Hancock argues that, despite the ECREEE's renewable energy policies and initiatives, there is a significant lack of coordination within the framework.[633]

This research, which examines the ECOWAS legal framework and follows Hancock's argument regarding the creation of ECREEE and the role of ECOWAS member states in establishing it, indicates that the lack of coordination in ECREEE's renewable energy policies and initiatives may stem from the limited involvement of member states in its formation, particularly when compared to WAPP. For example, the ECREEE website states that the Council of Ministers granted ECREEE its legal status through a regulation adopted by the Council of Ministers. In contrast, the ECOWAS Authority of Heads of State and Government established the WAPP.[634] Therefore,

[628] ECREEE (n 26).
[629] ibid
[630] Hancock 2015 (n 137).
[631] ibid.
[632] ibid.
[633] ibid.
[634] ECREEE (n 26).

it is essential to note that the ECREEE was given its legal power to act by the Council of Ministers, not by the Authority of Heads of State and Government, which is the only body of the ECOWAS established by its Treaty to enact laws and make Decisions that bind both member states and all ECOWAS institutions.[635] For instance, the ECOWAS Treaty stipulates that Regulations by the Council of Ministers are binding only on the Institutions under the Council and can only bind member states where the ECOWAS Heads of State and Government, or the Authority, delegates such regulations.[636]

In light of the uncertainty regarding ECREEE's legal status and authority, a regulation was enacted in 2020 to enhance its governance and operational efficiency: Regulation PC/REX.5/06/2020 concerning the functioning of ECREEE.[637] Conversely, WAPP does not necessitate additional legislation to bolster its legal standing or scope. This discrepancy underscores the absence of coordination within ECREEE's framework, thereby corroborating Hancock's findings that external entities established ECREEE and that ECOWAS member states were encouraged to accept ECREEE without being legally bound by it.

Furthermore, under the ECOWAS treaty, ECOWAS institutions must be established by the Authority itself to confer upon them the necessary legal status. For instance, as elucidated in Chapter Two, an examination of ECOWAS sources of law indicates that only the Authority possesses the mandate to enact laws and policies that directly impose obligations on both member states and institutions.[638] Conversely, regulations formulated by the Council of Ministers only attain binding effect on member states if sanctioned by the Authority through a Supplementary Act.[639] Nevertheless, at the time of this research, there was no Supplementary Act issued by the Authority delegating authority to the Council to confer legal powers upon ECREEE. This is corroborated by the fact that, more than ten years after the Council's regulation conferred legal status on ECREEE, another regulation was adopted in 2020 to improve ECREEE's governance status.[640] Moreover, it remains

[635] ECOWAS Treaty 1993 (n 11) art 7.
[636] ibid art 12(3).
[637] ECREEE (n 26).
[638] ECOWAS Treaty 1993 (n 11) art 7.
[639] ibid.
[640] ECREEE (n 26).

uncertain, as no documentation indicates that the 2020 regulation was enacted under delegated powers. Had this been the case, it would have been binding upon member states, obviating the necessity to introduce subsequent regulations to reaffirm ECREEE's legal status.

Eze[641] and others, in assessing the ECOWAS renewable energy development and projects, argue that ECOWAS has adopted renewable energy policies through the ECREEE and the formulation of the EREP and EEEP.[642] However, the authors contend that challenges such as financial constraints, institutional gaps, and inconsistencies in policy implementation in ECOWAS energy governance continue to hinder progress in the sector. Nevertheless, this research, following the assessment of the regional integration in chapter three and the ECOWAS approach to regional integration, argues that the legal lapses surrounding the establishment of ECREEE and the uncertainties about its legal status stem from ECOWAS' intergovernmental approach to integration, which illustrates the effect of intergovernmental arrangements in promoting renewable energy development and the energy transition. For instance, following the discussion of intergovernmentalism and neofunctionalism in Chapter Three of this research, if the ECOWAS Council, which granted the ECREEE its legal status, were a supranational institution, the question of ECREEE's governance and reaffirming its governance status with a new regulation might not be necessary. Accordingly, the regulation would become binding immediately, without requiring further authorisation or delegation by the Authority. Therefore, if ECREEE were established within a supranational context, this research contends that ECREEE would have been more effective because many of the challenges identified with the ECOWAS renewable energy legal framework relate to the lack of coordination, harmonisation, and inconsistencies in ECOWAS energy governance.

4.3.2.2 Examination of the ECOWAS West African Power Pool

To integrate its energy sector, promote electricity generation and transmission, and unify its regional electricity markets, the ECOWAS established the WAPP, with its headquarters in Cotonou, Benin.[643] The Authority established the WAPP through

[641] Eze and others (n 583).
[642] ibid.
[643] WAPP (n 605).

Decision A/DEC.5/12/99 at its Twenty-Second Summit of the Authority of Heads of State and Government, in 1999.[644] Subsequently, in 2006, by Decision A/DEC.18/01/06 at the Authority's Twenty-Ninth summit, the WAPP agreement was adopted, thereby granting it the status of a specialised institution of ECOWAS.[645] Here, it is worth noting that the Authority created and granted WAPP legal status. Through the WAPP, ECOWAS aims to encourage private sector investment in its energy sector. For instance, Ogwezzy argues that WAPP has been successful in promoting regional electricity markets within the ECOWAS sub-region.[646] Thus, this research, in examining the ECOWAS legal regime, contends that WAPP's success may be attributed to its establishment through a Decision of the Authority, which is binding on ECOWAS and its institutions.[647] Additionally, the success of the WAPP can be attributed to the energy source (oil and gas) being generated, transmitted, and marketed, as the region is mainly dependent on oil and gas as its primary energy sources.[648] Nevertheless, WAPP is presently involved in renewable energy initiatives within the region. For instance, although WAPP was originally established to facilitate the sale and coordination of electricity trade and transmission through oil and gas, it is now executing its second hydropower project on the St. Paul River in Liberia.[649]

WAPP's involvement in renewable energy projects within the region raises questions about whether ECOWAS established ECREEE with the appropriate legal status. This is because ECREEE's primary role is to increase access to clean energy, thereby facilitating the transition to the use and development of renewable energy and energy efficiency. Meanwhile, records show that WAPP also aims to supply power to the region through renewable energy sources. Nevertheless, given ECREEE's potential to influence external donors, private investors, and expertise in renewable energy issues, arguably, ECREEE's establishment is both timely and

[644] ibid.
[645] ibid.
[646] Chukwujindu Michael Ogwezzy, 'Legal Framework for the Implementation of ECOWAS Energy Programmes: The Energy Protocol, WAPP Agreement and WAGP Treaty' (2017) 15 (1) OGEL <https://www.ogel.org/article.asp?key=3666 > assessed 22 February 2024.
[647] ibid.
[648] ibid.
[649] West African Power Pool, 'Project Sheet: 2nd Hydropower Project on St. Paul River Liberia' <http://pipes.ecowapp.org/en/project/under-implementation/2nd-hydropower-project-st-paul-river-liberia > accessed 1 August.

necessary for addressing renewable energy development and the energy transition in the region. This is especially relevant given the challenges of alignment and harmonisation in ECOWAS' energy governance, with project financing also identified as a significant obstacle. Therefore, ECREEE could be leveraged to address this funding issue. Additionally, the Authority established WAPP's legal authority in 2006, while the Council granted ECREEE legal status in 2007.

Consequently, ECREEE may not have been established just a year after WAPP if they were directly connected, since WAPP's policies are regionally coordinated and reported to be successful among member states, especially with ERERA, which regulates WAPP's operations. However, this research raises questions about whether a similar regulatory structure could have been created for ECREEE. For example, the Authority could establish a regulatory body, like ERERA, to support ECREEE and strengthen its legal position. Hancock argued that examining ECREEE's legal status is crucial to determine whether ECOWAS established it for its own benefit or if external renewable energy entrepreneurs created it as a renewable energy business within ECOWAS member states. This is because the review of the ECOWAS legal framework, in this research, demonstrates that if ECREEE were not established by the Authority or through delegated authority, its laws and policies do not directly bind member states. Nevertheless, they may offer a guiding framework and opportunities for private investors, enabling member states to enhance their activities within the national renewable energy sectors. This may also help explain why ECREEE's policies and initiatives lack coordination across the region.

4.3.2.3 Examination of the ECOWAS Regional Electricity Regulatory Authority

To support the WAPP agreement, ECOWAS established the Regional Electricity Regulatory Authority (ERERA) within the WAPP framework to monitor and implement WAPP activities. ERERA is primarily established to ensure the transparent regulation of interstate electricity transactions and to provide relevant support to national electricity regulatory bodies.[650] The ECOWAS established ERERA through Supplementary Act A/SA.2/1/08 as a specialised

[650] ERERA (n 606).

institution of the ECOWAS with its headquarters in Accra, Ghana. Again, ERERA is established by a Supplementary Act, which obligates both member states and all ECOWAS institutions. This is because, at the 45th Session of the ECOWAS Authority of Heads of State and Government, the Authority adopted New Community Acts and indicated that Supplementary Acts are binding on member states and institutions because the Authority, through Supplementary Acts, can complete and amend Treaty provisions, thus giving Supplementary Acts the same binding force as the ECOWAS Treaty.[651]

4.3.2.4 A Critical Analysis of the ECOWAS Renewable Energy Laws, Policies, and Institutions

As discussed above, to meet its renewable energy and energy efficiency goals in the sub-region, the ECOWAS, through ECREEE, has developed the ECOWAS Renewable Energy Policy (EREP), which aims to increase the share of renewable energy in the region's energy mix to 35 per cent by 2020 and 48 per cent by 2030.[652] To complement the EREP policy, ECREEE developed the ECOWAS Energy Efficiency Policy (EEEP) to make 2,000 megawatts of power generation capacity available, ultimately doubling the rate of improvement in energy efficiency.[653] The National Renewable Energy Action Plans (NREAPs) aimed to harmonise regional policies and were adopted region-wide, with country-specific targets set.[654] Both EREP and EEEP were adopted by the Authority of Heads of State and Government in 2013 to give the policies the legal basis necessary to bind both member states and ECOWAS institutions.[655]

It is worth noting that the Authority adopted ECREEE's policies. Perhaps the Authority would have established ECREEE directly, granting it the legal status to

[651] ECOWAS Community Acts (n 125).
[652] ECOWAS Centre for Renewable Energy and Energy Efficiency, *The ECOWAS Authority of Heads of State and Government adopts the ECOWAS Policies on Renewable Energy and Energy Efficiency* (2013) <https://www.ecreee.org/the-ecowas-authority-of-heads-of-state-and-government-adopts-the-ecowas-policies-on-renewable-energy-and-energy-efficiency/ > accessed 5 August 2025.
[653] ibid.
[654] Eze and others (n 583).
[655] ECOWAS Centre for Renewable Energy and Energy Efficiency, 'National Action Plans Background: Implementation of the ECOWAS Renewable Energy and Energy Efficiency Policies' <http://www.ecreee.org/page/national-action-plans > assessed 23 February 2024.

make its policies and initiatives binding without further approval from the Authority. This action by the Authority again highlights the intergovernmental nature of ECOWAS integration, which, as this research finds, tends to impede the progress of ECOWAS energy governance. Nevertheless, through both policies, ECOWAS aims to address the severe energy crisis facing ECOWAS countries, manage energy poverty and its associated challenges, and also tackle issues related to energy security, climate change mitigation, and adaptation measures.[656] With the EREP policy, ECOWAS' target includes grid, off-grid, and standalone grid-connected applications as well as domestic renewable energy applications.[657]

Accordingly, the review of domestic renewable energy legal frameworks of Nigeria, Ghana, and Liberia, as presented below, references the EREP and EEEP policies in the formulation of national renewable energy policies. However, considering that both policies were established eleven (11) years ago and that the ECOWAS countries, as noted in section 4.5, still face issues with energy security and the need for sustainable, affordable energy, not least the disparity in electricity access ratios in the region, one could argue that the ECREEE is yet to achieve its targets at both domestic and regional levels. This research finds that, ECREEE has not fulfilled its mandate due to various issues, including insufficient implementation capacity in member states, which results from financial, institutional, and technical limitations in adapting ECREEE's regional policies and action plans.[658] Furthermore, diverse legal and political frameworks, particularly differences in legal systems, energy governance structures, and member-state priorities, continue to hinder ECREEE's progress.[659] According to IRENA, insufficient financing and investment, particularly due to underfunding of

[656] ibid.
[657] ibid.
[658] ECOWAS Centre for Renewable Energy and Energy Efficiency, 'Business Plan ECOWAS Centre for Renewable Energy and Energy Efficiency First Operational Phase: 2011 to 201' <https://www.ecreee.org/wp-content/uploads/2024/02/ECREEE-Strategic-Plan-2011-2016_EN.pdf> accessed 15 July 2025.
[659] Mounirah Bissiri, Patrícia Pereira da Silva, Pedro Moura and Nuno Carvalho Figueiredo, 'Are West Africa's policy, planning, and regulatory frameworks missing the harmonization piece of the power pooling-renewable energy puzzle?' (2024) 190 EP <https://doi.org/10.1016/j.enpol.2024.114161.> accessed 15 July 2025.

renewable energy initiatives and inadequate private-sector investment, stem from regulatory ambiguity in member states.[660]

Moreover, ECREEE possesses limited enforcement capabilities, lacks binding authority, and primarily performs advisory and coordinating functions, leading to inadequate infrastructure and grid facilities for renewable energy in ECOWAS.[661] For instance, although both the EREP and EEEP policies are binding on ECOWAS member states, disparities in energy access and persistent energy poverty indicate a lack of collaboration and synergy between domestic and regional policies. There also appears to be a disconnect among decision-makers and organisations at national and regional levels. The introduction of National Renewable Energy and Energy Efficiency Action Plans (NREAPS), intended to harmonise regional and domestic initiatives, has helped some countries develop their strategies. However, Eze and others argue that implementation of these plans has been inconsistent, mainly due to limited coordination, funding shortages, and weak institutional capacity.[662]

Additionally, the ECOWAS, through ECREEE, WAPP, and ERERA, has partnered with the IRENA to initiate the West African Clean Energy Corridor (WACEC).[663] The WACEC, in building on existing renewable energy development efforts in the sub-region by the World Bank, USAID, AFDB, and other international organisations, aims to (through the ECOWAS extant renewable energy framework) promote the development and integration of utility-scale renewable energy power in West African power systems.[664] The WACEC implementation plan includes raising public awareness to highlight the importance of the corridor in providing secure, sustainable, and affordable energy from renewable sources; conducting resource assessments to identify potential sites for renewable energy generation; building

[660] International Renewable Energy Agency, 'Mobilising institutional capital for renewable energy' (*IRENA*, 2020) <https://www.irena.org/-/media/Files/IRENA/Agency/Publication/2020/Nov/IRENA_Mobilising_Institutional_Capital_2020.pdf> accessed 15 July 2025.
[661] ibid.
[662] Eze and others (n 583).
[663] International Renewable Energy Agency, 'West African Clean Energy Corridor (WACEC): Overview' <https://www.irena.org/Energy-Transition/Country-engagement/Regional-Initiatives/West-Africa-Clean-Energy-Corridor > assessed 22 February 2024.
[664] ibid.

capacity; and promoting the framework for investment in renewables in the sub-region.[665] This research argues that, considering the WACEC implementation plan, ECREEE may involve all ECOWAS countries, allowing every country to benefit from the initiative. Nevertheless, this calls for the necessity of both national and regional cooperation within the ECOWAS framework for the development of renewable energy.

This research finds that the ECOWAS Treaty and the ECOWAS Energy Protocol encourage the development of domestic laws and policies for renewable energy and the energy transition. Accordingly, ECOWAS established specialised institutions such as WAPP, ERERA, and ECREEE to manage its renewable energy sector, with NREAPs to align these policies at the national level. As discussed, WAPP and ERERA are primarily established for oil and gas transactions and are considered successful in this regard. In contrast, the policies of ECREEE, namely EREP and EEEP, have yet to achieve notable success in enhancing energy security, ensuring sustainable and affordable energy, and promoting renewable energy development or accelerating the energy transition across ECOWAS member states. Additionally, the significant disparity in energy access rates among ECOWAS countries, along with the vast differences in their renewable energy legal frameworks and the resulting lack of harmonisation and coordination, cast doubt on ECREEE's role in managing renewable energy and energy efficiency matters at both regional and national levels. For example, in Liberia, it has been argued that the challenges regarding access to energy stem more from issues of finance, expertise, and technology, which this writer contends can be addressed by ECOWAS through ECREEE to provide Liberia and all ECOWAS countries with the necessary support, thereby fostering renewable energy development while facilitating the energy transition in the sub-region.

Therefore, this research argues that ECOWAS integration should encompass energy issues, and that institutions such as ECREEE should be strengthened and granted the necessary authority to oversee and implement policies at both regional and national levels. Moreover, ECREEE could work with relevant domestic and international renewable energy organisations to supply the necessary expertise

[665] ibid.

and technologies, thereby fostering public and private investment in renewables across the sub-region. Before assessing the renewable energy and energy transition legal frameworks of three ECOWAS member states, this researcher considers it essential to review the current energy access rates of ECOWAS countries, in light of the discussion above on the ECOWAS legal framework.

4.4 Overview of the ECOWAS Energy Mix, Sources, and Access to Electricity Ratio

IRENA, in its 2023 Annual Report, noted that governments face numerous challenges related to energy security, economic recovery, and the affordability of energy bills. The solution lies in the transition to renewable energy sources.[666] The United Nations Secretary-General António Guterres also acknowledged that 'A prompt, well-managed transition to renewables is the only pathway to energy security, universal access, and the green jobs our world needs.'[667] In its 2023 World Energy Transition Outlook, IRENA noted that the current measures to achieve the global 1.5°C 2050 target require prioritising electrification and efficiency as the main transition drivers by enabling renewable energy, clean hydro, and sustainable biomass.[668] To achieve the 1.5°C target, IRENA notes the need to increase renewable energy and energy efficiency by 2030.[669] In a 2014 Report by IRENA on the ECOWAS Renewable Energy and Energy Efficiency Status, IRENA calls on ECOWAS members to develop renewable energy and energy efficiency by first addressing the challenges of their energy sectors, alongside building a resilient energy system.[670] Tables 1 to 4 below provide an overview of ECOWAS members, their populations, electricity access ratios, energy supply progress, and countries with oil and gas deposits.

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[666] Pereira (n 1).

[667] United Nations, Message by António Guterres on the Launch of IPCC Climate Report on Impacts, Adaptation and Vulnerabilityhttps://indonesia.un.org/en/173453-message-ant%C3%B3nio-guterres-launch-ipcc-climate-report-impacts-adaptation-and-vulnerability > assessed 8 June 2024.

[668] IRENA, 'World Energy Transition Outlook' (2023) <https://safety4sea.com/wp-content/uploads/2023/03/World-energy-transitions-outlook-2023.pdf > accessed 5 August 2025.

[669] ibid.

[670] REN21, 'ECOWAS Renewable Energy and Energy Efficiency: Status Report' <https://www.ren21.net/wp-content/uploads/2019/05/ECOWAS_EN.pdf > assessed 5 August 2025.

Table 2: ECOWAS energy supply (in percentage) as of 2020, by IRENA.[671]

Countries	Fossil Fuels	Renewables
Benin	100	0
Burkina Faso	33	67
Cape Verde	81	19
Côte d'Ivoire	38	62
Gambia	57	43
Ghana	59	41
Guinea	35	65
Guinea Bissau	X	X
Liberia	9	91
Mali	33	67
Niger	35	65
Nigeria	24	76
Senegal	56	44
Sierra Leone	21	79
Togo	16	84

Table 3: Access to Electricity (in percentage), and population in ECOWAS, by The World Bank - 2023.[672]

Members	Electricity	Population (2022)[673]
Benin	57.0	13,352,864
Burkina Faso	21.7	22,673,762
Cape Verde	**98.6**	**593,149**
Cote d'Ivoire	**72.4**	**28,160,542**
Gambia	**66.9**	**2,705,992**
Ghana	**89.5**	**33,475,870**
Guinea	51.1	13,859,341
Guinea Bissau	40.5	2,105,566
Liberia	32.5	5,302,681
Mali	53.5	22,593,590
Niger	20.1	26,207,977
Nigeria	60.2	218,541,212

[671] International Renewable Energy Agency, 'Country Energy Profiles: Statistical Profiles' < https://www.irena.org/Data/Energy-Profiles > assessed 13 June 2024.
[672] World Bank (n 278).
[673] World Bank, 'Population – Total 2022' <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=BJ-BF-CV-GM-CI-GH-GN-GW-LR-ML-NG-NE-SN-SL-TG > assessed 13 May 2025.

Senegal	74.2	17,316,449
Sierra Leone	35.5	8,605,718
Togo	59.2	8,848,699

Table 4 shows the evolution of supply from 2018 to 2021. Boxes marked 'X' indicate no data at the time of presentation. Examining the overall supply from 2018 to 2021, there is an increase of 846 ktoe over the four-year period. However, with a growing population and rising energy demand, one could argue that more must be done to increase supply to meet the needs of the seemingly growing population. This involves diversifying energy sources and encouraging members to promote and support the development of renewable energy and energy transition.

Table 4: Evolution of ECOWAS Energy Supply in Kilo-tonnes of oil equivalent (ktoe).[674]

Members	2018	2019	2020	2021
Benin	4 758	4 627	4 810	5 073
Burkina Faso	6 184	6 390	6 852	X
Cape Verde	231	X	X	X
Cote d'Ivoire	10 005	10 529	11 193	X
Gambia	643	X	X	X
Ghana	10 586	11 173	12 295	12 224
Guinea	4 994	X	X	X
Guinea Bissau	512	471	489	X
Liberia	1 440	X	X	X
Mali	6 918	7 242	7 624	X
Niger	2 714	2 856	2 953	3 160
Nigeria	77 813	83 061	X	X
Senegal	4 588	4957	4 466	X
Sierra Leone	3 128	X	X	X
Togo	3 216	3 310	3 647	X
ECOWAS	134 939	139 797	148 459	145 785

Accordingly, *Table 5* shows countries with oil and gas resources. This demonstrates that not all ECOWAS members have oil and gas resources, yet they all rely on them. However, given the various sources of renewable energy, one might expect

[674] ECOWAS Directorate for Energy and Mines (n 622).

that all countries would have at least one source of renewable energy that can be harnessed individually or collectively to increase access to electricity in the sub-region.

Table 5: Members Producing Petroleum Products.[675]

Members	Percentage Petroleum Products
Benin	X
Burkina Faso	X
Cape Verde	X
Côte d'Ivoire	49
Gambia	X
Ghana	4
Guinea	X
Guinea Bissau	X
Liberia	X
Mali	X
Niger	10
Nigeria	29
Senegal	9
Sierra Leone	X
Togo	X

4.4.1 A Critical Assessment of the ECOWAS Energy Mix, Sources, and Electricity Access Rate

It is worth noting that over 90 per cent of the renewable energy share, as indicated in IRENA's data presented in *Table 2* above, is derived from bioenergy.[676] IRENA notes two principal categories of bioenergy: traditional and modern.[677] Traditional bioenergy refers to the combustion of biomass, including wood, animal waste, and charcoal.[678] In contrast, modern bioenergy utilises technology, including liquid

[675] ibid 22, 33.
[676] International Renewable Energy Agency, 'Country Energy Profiles: Statistical Profiles' < https://www.irena.org/Data/Energy-Profiles > assessed 13 June 2024.
[677] International Renewable Energy Agency, 'About Bioenergy and Biofuels' <https://www.irena.org/Energy-Transition/Technology/Bioenergy-and-biofuels> 13 June 2024.
[678] ibid.

fuels derived from bagasse and various plants.[679] The review of a 2023 Report on the ECOWAS energy outlook shows that the category of bioenergy used in the above ECOWAS countries is traditional bioenergy.[680] The International Energy Agency (IEA) also notes that modern bioenergy does not include the conventional use of biomass, which is predominantly used in developing countries for cooking and heating fires, and it has a detrimental impact on human health and the environment.[681]

The World Health Organisation (WHO) finds that, every year, over Three Million (3M) people, including women and children, mostly from developing and vulnerable countries, die as a result of the use of traditional bioenergy.[682] This indicates that the use of conventional bioenergy is no different from the use of fossil fuels in terms of its impact on human health and the environment. Therefore, it is argued that traditional bioenergy sources are not healthy or environmentally friendly sources of renewable energy. However, with current technological advancements and collective effort, including research and development, these traditional forms can be made clean and secure for the ECOWAS citizens. Meanwhile, Cape Verde and Ghana are highlighted because their share of renewable energy also includes hydro and marine energy.

Based on the electricity access ratio presented above, it can be argued that energy security and access issues are mainly domestic. However, this research suggests that they could be effectively addressed through collective regional and international efforts. Therefore, the significance of reviewing specific national renewable energy legal frameworks should not be underestimated, as countries may possess renewable energy sources yet may lack the requisite expertise, financing, and legal structures to manage their development competently.[683] For

[679] ibid.
[680] ECOWAS Directorate for Energy and Mines (n 622).
[681] International Energy Agency, 'Bioenergy' < https://www.iea.org/energy-system/renewables/bioenergy> assessed 13 June 2024.
[682] World Health Organisation, 'Household air pollution: key facts' (*WHO*, 15 December 2023) <https://www.who.int/news-room/fact-sheets/detail/household-air-pollution-and-health> assessed 26 March 2024.
[683] A Fajardo, L H Baker, T Sesan, S Bhattacharyya, D Kerr, M Katyega and A Barnett, 'Business models and access to finance for mini grid development in sub-Saharan Africa' (2025) 85 ESD < https://www.sciencedirect.com/science/article/pii/S097308262500016X?via%3Dihub > accessed 15 July 2025.

example, ECOWAS aims to improve the livelihoods of its citizens and promote the harmonisation and collaboration of national policies, including encouraging integration activities in specific areas such as energy.[684] This entails advocating for an increased share of renewable energy in the energy mix of its countries, including supporting, promoting, and using environmentally friendly sources of energy, reducing reliance on fossil fuels, and, subsequently, facilitating an energy transition.

A 2023 report on ECOWAS energy facts by the ECOWAS Directorate for Mines and Energy shows that, as of 2021, natural gas accounted for 42 per cent of the ECOWAS energy mix, followed by petroleum products at 37 per cent, hydroelectricity at 19 per cent, and solar and other renewables accounting for only 1 per cent of the region's energy mix.[685] Despite the region's wealth of renewable energy sources, renewable energy constitutes only 1 per cent of the total. This indicates that ECOWAS countries continue to rely mainly on electricity from environmentally harmful sources, as previously mentioned, despite having signed the Paris Agreement.[686] As shown in *Table 2* above, and given the increasing population of the ECOWAS and the consequent rise in electricity demand, it can be further argued that the ECOWAS needs to explore alternative energy sources to increase access to energy for its growing population.

The 2023 ECOWAS Report further states that oil products in the ECOWAS are mainly imported, whereas crude oil and natural gas are exported.[687] This implies that countries producing oil and gas in the ECOWAS would rather export their products to other countries (Western Countries), possibly at a higher cost, in exchange for substantial remuneration to develop the individual country's economy.[688] This raises questions about the benefits of ECOWAS integration, particularly for smaller countries in the bloc, considering the electricity access ratio. For example, as shown in *Table 5* above, only five of the ECOWAS members

[684] ECOWAS Treaty 1993 (n 11) art 3(2).
[685] ECOWAS Directorate for Energy and Mines (n 622).
[686] United Nations Framework Convention on Climate Change, 'Paris Agreement (2015)' <https://unfccc.int/files/meetings/paris_nov_2015/application/pdf/paris_agreement_english_.pdf> assessed 25 March 2024.

[688]African Futures and Innovation Programme (AFIP), 'ISS African Futures with AUDA-NEPAD' (*AFIP*, 2025) <https://futures.issafrica.org/geographic/recs/ecowas/> accessed 15 July 2025.

produce petroleum products. Thus, it can be argued that members without oil and gas resources would be at the mercy of the five countries noted above, which might be responsible for the disparity in access to electricity (*Table 3)*. This further underscores the need to promote and support research and development into alternative energy sources in the sub-region. It also demonstrates that energy issues—energy security, access, and affordability — are better managed and addressed collectively.

Additionally, it is noteworthy that Nigeria's access ratio exceeds 60 per cent, and that Nigeria contributes 29 per cent of the petroleum products within the ECOWAS region. In contrast, Ghana produces approximately 4 per cent of petroleum, with over 80 per cent of its population enjoying access to electricity. This discrepancy raises questions about the efficacy of national legislation in managing such production for the benefit of its citizens, as well as the regional implications within the ECOWAS context. For example, although records indicate that Ghana accounts for about 4 per cent of the region's petroleum production, its electricity access ratio surpasses that of Nigeria. This can be attributed to Ghana's evolving national energy legal framework, which encourages and facilitates the development and utilisation of alternative energy sources, thereby reducing reliance on fossil fuels for electrification. For example, Ghana's amendment to its Renewable Energy Act introduced 'net-metering' to encourage self-generation of renewable energy fed into the national grid.[689]

However, Ghana is currently powered mainly by oil and gas, making electricity very expensive in Ghana; nevertheless, this accounts for Ghana's high rate of electricity access.[690] Consequently, this researcher argues that ECOWAS integration may be leveraged to collectively oversee the management of natural resources, reduce high electricity costs in the region, and increase access to electricity within the ECOWAS region for the benefit of all its citizens. Thus, this researcher contends that the ECOWAS integration model diverges from the EU's

[689] Set Owusu-Mante, 'The Case for Ghana's Renewable Energy Transition: A Path to Sustainability and Economic Resilience' (*Climate Policy LAB*, 7 March 2025) <https://www.climatepolicylab.org/climatesmart/2025/3/7/the-case-for-ghanas-renewable-energy-transition-a-path-to-sustainability-and-economic-resilience > accessed 4 August 2025.
[690] ibid.

integration model, as evidenced in Chapter Five, where EU member states predominantly share a similar standing regarding access to electricity.

In summary, a thorough analysis of the 2023 ECOWAS Report reveals significant disparities in energy access throughout the region, indicating that energy-related challenges have a substantial impact on the ECOWAS region. There is a deficiency at both the national and regional levels concerning a comprehensive, binding legal framework necessary for the effective governance of the energy sector. This matter is further elaborated upon in the subsequent sections of this chapter, which focus on the legal framework of the member states. Additionally, this examination investigates the underlying causes of limited energy access in the region. The above ECOWAS energy outlook also outlines the dynamics of intergovernmental arrangements, in which oil-producing nations primarily trade their products with Western countries rather than with fellow ECOWAS member states. Such conduct emphasises the insufficient commitment of some members to the collective well-being of ECOWAS citizens and highlights the inadequate domestic enforcement of ECOWAS energy legislation. Notably, significant concerns exist regarding insufficient access to electricity in certain member states. In light of this summary of the ECOWAS energy outlook, the remaining sections of this chapter assess the energy legal framework at both the national and regional levels. This evaluation aims to identify avenues for ECOWAS integration that could bolster electricity access by fostering renewable energy development and facilitating the energy transition across the region.

4.5 An Analysis of Nigeria, Ghana, and Liberia Renewable Energy Legal Frameworks

This section aims to assess the role and connection between the national and regional renewable energy legal framework to determine the impacts of regional arrangements at the national level. For example, in the case of the ECOWAS sub-region, some domestic efforts in support of renewable energy and energy transition have been applauded,[691] which this research contends may be adopted

[691] Adilson Neto, Alcidia Alfama, Edeneia Gonçalves and Oscar Borges, 'ECOWAS Regional Cooperation for the Environment with a Special Focus on Cape Verde's Renewable Energy Strategy' (2018) 11 (10) JPAS 51,67 <http://jpanafrican.org/docs/vol11no10/11.10-new-5-Neto.pdf> assessed 14 March 2024.

at the regional level. This is due to the electricity access rates of some ECOWAS countries, such as Cape Verde and Ghana, as presented in *Table 3* above. In Ghana, the Parliament amended the 2011 Renewable Energy Act primarily to reduce the charge on renewable systems and the resulting cost of electricity from renewable energy sources.[692] Therefore, it can be argued that Cape Verde and Ghana have implemented appropriate measures, along with relevant legislation, to manage domestic energy issues, which could be studied and adopted at the regional level.

Thus far, the study of regional organisations has shown that, in the context of energy issues, one cannot fully assess the benefits of regional integration schemes without first understanding the prevailing national framework. In this case, it involves understanding national measures to promote the development and use of renewable energy, as well as energy transition, at both national and regional levels. This may further show how regional renewable energy laws and policies have impacted domestic measures. For instance, in the case of the EU, Chapter Five demonstrates that the EU has enacted legally binding legislation across its member states to meet its renewable energy and energy transition ambitions, achieving mostly successful results.

To understand the context of the ECOWAS countries' renewable energy and energy transition targets alongside their climate ambitions, this research finds it helpful to briefly examine their NDCs[693] under the Paris Agreement.[694] Subsequently, references are made to the NDCs of Nigeria, Ghana, and Liberia to clarify the commitments made by all three countries, as well as the targets they have set. The Paris Agreement is a binding international agreement with the primary aim of encouraging countries to take measures to adapt to the impacts of climate change while reducing greenhouse gas emissions.[695] The Paris Agreement is relevant to the current research because it is a legally binding document that urges countries to limit global temperature increases.[696] The Paris Agreement calls on countries

[692] Ghana Renewable Energy (Amendment) Act, 2020 (Act 1045).
[693] United Nations Framework Convention on Climate Change, 'Nationally Determined Contributions (NDCs)' <https://unfccc.int/process-and-meetings/the-paris-agreement/nationally-determined-contributions-ndcs > assessed 25 March 2024.
[694] Paris Agreement (n 66).
[695] ibid.
[696] ibid art 2.

to communicate and maintain their NDCs, which they intend to achieve to mitigate and adapt to climate change impacts.[697] For example, the Agreement requires developed countries, alongside their existing obligations, to provide financial support to vulnerable and developing countries for both their mitigation and adaptation measures.[698] Importantly, the Agreement encourages countries to cooperate in implementing their Nationally Determined Contributions, enabling greater ambition in their mitigation and adaptation actions, thereby promoting sustainable development and environmental strategies.[699]

This section examines the legal frameworks governing renewable energy in Nigeria, Ghana, and Liberia, with a focus on their implications for renewable energy development and the energy transition. This is also intended to identify potential national frameworks that can be adopted at the regional level. Essentially, effective national frameworks—particularly for countries such as Cabo Verde, which possesses a high electricity access ratio—may be examined and implemented at the regional level by the ECOWAS. Before delving into the discussion in this section, it is worth noting the relevance of the individual countries and why this researcher selected them for the national analysis. As evidenced in Chapter One, not all the ECOWAS members have English as their official language. Therefore, all three countries were chosen because English is their official Language, which, for this researcher, makes it easy to access the necessary information for the current research. The choice involves demonstrating the potential barriers and challenges that individual member states may face in their research and development of renewable energy and in their energy transition. Nigeria is chosen because it is a major contributor to ECOWAS[700] and because its economy heavily depends on the export of petroleum products.[701]

Furthermore, Nigeria is the most populous member of the ECOWAS. Nigeria's economy is significantly reliant on oil, as it is the largest producer and exporter

[697] ibid art 4(2).
[698] ibid art 9.
[699] ibid art 6.
[700] D O Olayungbo, 'Effects of oil export revenue on economic growth in Nigeria: A time varying analysis of resource curse', (2019) 64 RP <https://www.sciencedirect.com/science/article/abs/pii/S0301420717301344 > accessed 15 July 2025.
[701] ibid.

of oil in Africa.[702] The International Monetary Fund estimates that it accounts for over 95 per cent of export earnings, 25 per cent of GDP, and approximately 90 per cent of government revenue.[703] In the past 16 years, Nigeria has paid over $1 billion to ECOWAS as part of its Community levy.[704] This amount accounts for approximately 40 per cent of the total payment made by the member states during the same period, slightly less than $3 billion. Nigeria is the largest financial contributor among the 15 Member States, contributing approximately 40–60 per cent of the ECOWAS budget.[705]

Additionally, Nigeria contributed over 70 per cent of the paid-up capital of the ECOWAS Bank of Investment and Development (EBID), which succeeded the ECOWAS Fund.[706] The Bank finances development projects and programs in West Africa. Nigeria, one of the 15 member states of ECOWAS, holds nearly 40 per cent of the EBID's shares, making it the largest shareholder of the Bank's financial assets.[707] Nigeria's domestic energy framework may favour energy from fossil fuels over renewable energy.[708] Moreover, Nigeria has, until recently, lacked a comprehensive renewable energy legal framework and remains largely reliant on fossil fuels, despite the notable environmental impacts of these fuels. Conversely, Ghana is recognised for its domestic legal framework that promotes and supports renewable energy development and usage, evident in the high electricity access rate among its population. Therefore, valuable lessons may be gained from reviewing Ghana's renewable energy legal framework. On the other hand, Liberia is recognised as one of the ECOWAS countries where the renewable energy legal framework is still in its early stages, with many Liberian citizens lacking access to electricity, as shown in *Table 2* above.

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[702] ibid.

[703] ibid.

[704] Segun Oshewolo, Ademola Azeez, Olusegun Adesanya, Temidayo Oladipo, Oluseyi Olaleye and Opeyemi Ade-Ibijola, 'Nigeria in ECOWAS Politics: Major Contributions, Dividends and Setbacks' (2023) 16(2) IA 127, 145. <https://doi.org/10.1177/09750878231209706> accessed 15 July 2025.

[705] ibid.

[706] Ernest Favor, 'Nigeria deepens control at ECOWAS Bank with new $100m investment' (*Finance in Africa*, May 2025) <https://financeinafrica.com/news/nigeria-ebid-100-million-capital/> accessed 5 August 2025.

[707] Enoch Randy Aikins, 'ECOWAS Geographic Futures' (*ISS African Futures*, 9 April 2025) 33 <https://futures.issafrica.org/geographic/recs/ecowas/> accessed 5 August 2025.

[708] UkoimaKelvin Nkalo, 'Nigeria's renewable energy sector: analysis of the present and future prospects' (2025) 14 SC <https://doi.org/10.1016/j.solcom.2025.100123.> accessed 5 August 2025.

As shown later in this section, the three countries are endowed with renewable energy sources. While Nigeria focuses on developing fossil fuels, Ghana plans to build its renewable energy capacity to increase the share of renewables in its energy mix. Liberia, with a legal framework in place to promote renewable energy development and policies, lacks the financial resources to develop its renewable energy sector. Therefore, the review of the above domestic energy legal frameworks enables the researcher to make tangible and reasonable inferences about the ECOWAS member states when examining the success or failure of the ECOWAS extant renewable energy legal framework at both national and regional levels. These notable differences in domestic legislation may have regional consequences, such as the lack of harmonisation, alignment, and coordination of the ECOWAS legal framework regarding renewable energy in the sub-region. Therefore, for the three countries assessed below, the aim is to evaluate their renewable energy and energy transition legislations, their renewable energy and transition targets, and their NDCs, following the United Nations Framework Convention on Climate Change, and possible coherence in their priorities to demonstrate the impact of regional initiatives at the national level.

4.5.1 Nigeria's Renewable Energy Legal Framework

Nigeria, as noted in Chapter Two, played a fundamental role in establishing ECOWAS. For instance, some scholars argue that Nigeria, in addition to its significant contribution to the creation of the ECOWAS Treaty, continues to bear the responsibility of maintaining and sustaining the existence of ECOWAS.[709] In 2024, when Niger, Mali, and Burkina Faso decided to leave the ECOWAS as a result of being sanctioned because their military leaders had militarily overthrown democratically elected governments and refused to hand over power or conduct an election in their countries.[710] Nigeria took the initiative to resolve the issue and to remind the countries of the relevance of the union and why they should

[709] Mo Osondu, 'Membership in Multilateral Economic Organisation: Evaluation of Nigeria's Participation in ECOWAS (1985-2014)' (2015) 10 (1) IJDMR <https://www.ajol.info/index.php/ijdmr/article/view/120937 > assessed 24 February 2024.
[710] Ope Adetayo, 'West Africa bloc announces formal exit of three junta-led states' *(Reuters*, 2025) <https://www.reuters.com/world/africa/west-africa-bloc-announces-formal-exit-three-junta-led-states-2025-01-29/> accessed 15 July 2025.

remain together.[711] Nevertheless, despite the ongoing strained relationship among the three Sahelian nations and ECOWAS, these countries might be temporarily excluded from ECOWAS.[712] However, Nigeria continues to play a vital role in ECOWAS integration and may also utilise its influence within the ECOWAS to promote and support renewable energy development and energy transition in the sub-region. This enables the researcher to determine how the ECOWAS renewable energy arrangements have influenced Nigeria's renewable energy legal framework.

4.5.1.1 Legislation

Nigeria possesses significant deposits of natural resources, including oil and gas.[713] As of 2022, statistics indicate that Nigeria is the continent's leading oil-producing nation.[714] The Nigerian economy predominantly relies on its oil and gas sector, which underpins its social and economic development.[715] Furthermore, Nigeria is endowed with considerable renewable energy resources that, if effectively harnessed, could meet approximately 60 per cent of the country's energy demands by 5050 and potentially conserve 40 per cent of the nation's natural gas and 65 per cent of its oil requirements, as reported by IRENA in 2023.[716] According to the World Bank, as of 2022, Nigeria's population amounts to two hundred eighteen million five hundred forty-one thousand two hundred twelve (218 541 212).[717] Nevertheless, despite Nigeria's considerable oil, gas, and renewable energy

[711] Chiamaka Okafor, 'Gowon asks ECOWAS to life the sanctions on Niger, Mali, and Burkina Faso' *Premium Times* (Abuja, 22 February 2024) < https://www.premiumtimesng.com/news/670566-gowon-asks-ecowas-to-lift-sanctions-on-niger-mali-burkina-faso.html > assessed 15 March 2024.
[712] Chris Ewokor, 'Three military-run states leave West African bloc-what will change?' *BBC* (Abuja, 19 January 2025) < https://www.bbc.co.uk/news/articles/c5yvd91j72eo > accessed 4 August 2025.
[713] Saifaddin Galal, 'Leading Oil Producing Countries in Africa 2023' (*Statista*, 10 June 2025) <https://www.statista.com/statistics/1178514/main-oil-producing-countries-in-africa/ > assessed 24 February 2024.
[714] ibid.
[715] Doris Dokua Sasu, 'Oil Industry in Nigeria – Statistics and Facts' (2023) (*Statista*, 5 November 2024) <https://www.statista.com/topics/6914/oil-industry-in-nigeria/#dossier-chapter4 > assessed 24 February 2024.
[716] IRENA, 'Renewables Can Provide Nearly 60 Per Cent of Nigeria's Energy Demand by 2050' (*IRENA*, 13 January 2023) <https://www.irena.org/News/pressreleases/2023/Jan/Renewables-Can-Provide-Nearly-60-Per-Cent-of-Nigerias-Energy-Demand-by-2050 > assessed 24 February 2024.
[717] World Back, 'Population, total – Nigeria' <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=NG> assessed 26 March 2024.

potential[718], only about 59 per cent of its population has access to energy,[719] which is primarily derived from fossil fuels.[720] While Nigeria's legal framework for energy is extensive.[721] However, Gungah and others argue that Nigeria lacks specific legislation addressing its renewable energy sector.[722]

Additionally, Ogbumgbada argues that Nigeria's legal framework is inadequate in providing a comprehensive framework for the development of its renewable energy resources.[723] This is because Nigeria's Electric Power Sector Reform Act (EPSRA) of 2005 did not incorporate provisions for the development of renewable energy. Until recently, this Act served as the principal legislation governing Nigeria's electricity sector. The EPSRA established the Nigerian Electricity Regulatory Commission, which remains the electricity regulator in Nigeria at the time of this research. In 2021, Nigeria enacted the Petroleum Industry Act, which primarily focuses on oil and gas transactions, only indirectly promoting the advancement of renewable energy sources.[724] Consequently, this research contends that the Petroleum Act 2021 overlooked energy transition issues and their implications for the energy sector. Therefore, Nigeria's legal framework for renewable energy is predominantly centred on the management of its oil and gas industry, which stems from the fact that the country's economy substantially depends on its oil and gas transactions.

[718] International Energy Agency, 'Nigeria' < https://www.iea.org/search/charts?q=Nigeria > assessed 24 February 2024.
[719] World Bank, 'Access to Electricity Percentage by Population' (2023) <https://data.worldbank.org/indicator/EG.ELC.ACCS.ZS > assessed 24 February 2024.
[720] International Energy Agency, 'Nigeria' < https://www.iea.org/search/charts?q=Nigeria > assessed 24 February 2024.
[721] International Renewable Energy Agency, 'Nigeria; Energy Policies' <https://www.iea.org/search/policies?q=Nigeria > assessed 24 February 2024.
[722] Aarti Gungah, Nnaemeka Vincent Emodi and Michael O Dioha, 'Improving Nigeria's renewable energy policy design: A case study approach' (2019) 130 EP 89, 100, < https://www.sciencedirect.com/science/article/pii/S0301421519302320?via%3Dihub> accessed 15 July 2025.
[723] Chitzi C Ogbumgbada, 'Developing on effective legal framework for renewable energy utilization in Nigeria' (2018) 8 (3) RELPR 45, 52 <https://www.elgaronline.com/view/journals/relp/8-3/relp.2018.03.05.xml > assessed 24 February 2024.
[724] Nigeria Climate Change Act 2021.
[724] Nigeria Petroleum Industry Act 2021, s 64.

However, in 2021, after the then-President of Nigeria committed to cutting emissions at COP26 in Glasgow, with the support of the COP26 Energy Transition Council,[725] the President passed the Nigeria Climate Change Act 2021. There is also the Science, Technology, and Innovation Act of 2022. Neither the Climate Change Act nor the Innovation Act 2022 specifically addresses renewable energy development in Nigeria. For example, the Climate Change Act comprises 36 Articles, and renewable energy is mentioned only once, in Article 20(4)(b).[726] There is also the National Council on Climate Change, established in 2022, which has the authority to formulate policies to address climate change in Nigeria.[727] The enactment of these laws demonstrates the evolution of Nigeria's energy legal framework. However, none of the aforementioned legislations explicitly addresses the need for research and development of renewable energy in Nigeria, despite the country's endowment with renewable energy sources.

In mid-2023, amid a clamour to legislate primarily for the promotion and support of renewable energy, the Nigerian government revised the EPSRA 2005 Electric Power Sector Reform Act with the 2023 Electricity Act (Revised). The 2023 Act, in Paragraph 17, makes provision for the development of renewable energy, including support schemes for renewable energy development in Nigeria. The 2023 Act highlighted the importance of developing and utilising renewable energy, further promoting the integration of renewables into Nigeria's energy mix.[728] For example, this is the first time renewable energy has been legislated into an Act in Nigeria. In addition, the Electricity Act 2023, Part XVII, sections 164-171, explicitly addresses renewable energy resources, including wind, solar, biomass, and hydro energy. Consequently, in 2024, the Electricity Act of 2023 was amended by the Electricity Amendment Act 2024. Specifically, Part XVII, Section 164 of the

[725] Arnaud Koehl, Isabela Keuschnig, Catherine Higham and Tiffanie Chan, 'From COP26 to COP27: Four climate laws passed in the last year' (*London School of Economics*, 8 December 2022) < https://www.lse.ac.uk/granthaminstitute/news/from-cop26-to-cop27-four-climate-laws-passed-in-the-last-year/#:~:text=Nigeria:%20Energy%20transition%20plan%20announced,sustainability%2C%20and%20resilience".%EF%BB%BF > accessed 6 August 2025.

[726] Climate Change Act 2021.

[727] Muhammed Tawfig Ladan, 'A Review of Nigeria's 2021 Climate Change Act: Potential for Increased Climate Litigation' (*International Union of Conservation of Nature*, 28 March 2022). <https://iucn.org/about-iucn > accessed 6 August 2025.

[728] Nigeria Electricity Act 2023, Para 17 < https://placng.org/i/wp-content/uploads/2023/06/Electricity-Act-2023.pdf> assessed 26 March 2023.

Electricity Amendment Act 2024 stipulates that the 'communication to promote the development and utilisation of renewable energy' is permitted. In other words, the Electricity Amendment Act 2024, among other measures, emphasised the need to develop renewable energy sources to provide electricity to the rural population. The Electricity Amendment Act 2024 represents a significant milestone in Nigeria's electricity sector. Inevitably, easing the financial burdens of Electricity Generating Companies (GENCOS) and empowering communities through collaborative management of development funds will promote a more sustainable and equitable environment for electricity generation and distribution in Nigeria.[729]

4.5.1.2 Policies and Initiatives

With recent developments in Nigeria's energy sector, particularly in renewable energy, it can be argued that the country is responding to global environmental issues, such as climate change and global warming, by enacting legislation to promote the development and use of renewable energy. However, Nigeria's energy sector remains predominantly oil and gas. Therefore, one can only hope that the recent Electricity Acts of Nigeria create an enabling environment, characterised by legal certainty, decentralisation, increased investment competition, and the creation of employment opportunities, which will enable Nigeria to harness its renewable energy resources and promote energy transition, thereby gradually reducing Nigeria's reliance on fossil fuels. Nigeria's renewable energy policies include the Renewable Energy Master Plan 2005;[730] the National Renewable Energy and Efficiency Policy of 2015; the National Renewable Energy Efficiency Policy of 2013, the National Energy Efficiency Action Plan 2015-2030; the Nigeria Renewable Energy Master Plan 2011;[731] Nigeria Feed-in Tariff for

[729] ADVOCAAT, 'GENCOS' CSR: Obligations for Host Communities Development under the Electricity (Amendment) Act of 2024' <https://advocaat-law.com/wp-content/uploads/2024/04/GENCOs-Corporate-Social-Responsibility-Obligations-for-Host-Community-Development-.pdf > accessed 6 August 2025.

[730] International Energy Agency, 'Renewable Energy Master Plan' <https://www.iea.org/policies/4967-renewable-energy-master-plan?s=1 > assessed 24 February 2024.

[731] International Renewable Energy Agency, 'Nigeria Renewable Energy Master Plan'<https://www.iea.org/policies/4974-nigeria-renewable-energy-master-plan?s=1 > assessed 24 February 2024.

Renewable Energy Sourced Electricity 2016;[732] and the Climate, Technology Centre and Network Technical Assistance Programme of 2013[733] which is in partnership with the United Nations Environment Programme and the United Nations Development Organisation. This programme aims to provide technical assistance in response to requests from developing economies or nationally selected focal points on specific climate technology sectors.

To this end, Nigeria and all other ECOWAS countries that are also signatories to the Paris Agreement have, at various times, submitted their detailed and ambitious Intended Nationally Determined Contributions (INDCs) to the secretariat of the United Nations Framework Convention on Climate Change, as requested.[734] Nigeria, in its INDCs, committed to reducing greenhouse gas emissions by millions of tonnes by 2030 and increasing renewable energy by 31 per cent by 2030.[735] Further committing to implementing mitigation measures that will promote low-carbon as well as sustainable and high economic growth, and enhancing national capacity to adapt to the climate change impact.[736] The Nigerian government has also committed to a National Energy and Energy Efficiency Policy, aiming to generate 30,000 megawatts (MW) of electricity by 2030, with 30 per cent of its energy mix comprised of renewable energy.[737]

[732] International Renewable Energy Agency, 'Nigeria Feed-in Tariff for Renewable Energy Sourced Electricity' <https://www.iea.org/policies/5974-nigeria-feed-in-tariff-for-renewable-energy-sourced-electricity?s=1 > assessed 24 February 2024.

[733] International Energy Agency, 'Climate, Technology Centre and Network Technical Assistance' <https://www.iea.org/policies/11688-climate-technology-centre-and-network-technical-assistance?s=1 > assessed 24 February 2024.

[734] Philip Antwi-Agyei, Andrew J Dougill, Thomas Peprah Agyekum and Lindsay C Stringer, 'Identifying Opportunities for Coherence between the Intended Nationally Determined Contributions and the Sustainable Development Goals: The Case of the ECOWAS Member States' (2017) 110 SRI < https://sri-working-papers.leeds.ac.uk/wp-content/uploads/sites/67/2019/05/SRIPs-110.pdf > accessed 9 January 2024.

[735] United Nations Framework Convention on Climate Change, 'Nigeria's Intended Nationally Determined Contributions' (2015) <https://www4.unfccc.int/sites/submissions/INDC/Published%20Documents/Nigeria/1/Executive%20Summary_Nigerian%20INDC_271115.pdf > assessed 15 March 2024.

[736] ibid.

[737] Taiwo Oyedele, Abimbola Banjo and Rotimi Teteye, 'The Petroleum Industry Act: Redefining the Nigerian oil and gas landscape' (2021) PWHCN 9 <https://www.pwc.com/ng/en/assets/pdf/nigeria-petroleum-industry-act-1.pdf > assessed 26 March 2024.

4.5.1.3 Assessment of Nigeria's Renewable Energy Legal Framework

Considering Nigeria's extensive oil, gas, and renewable energy resources, one would expect the country to achieve nearly 100 per cent access to electricity. Nonetheless, as of 2023, only approximately 59 per cent of its population has access to electricity, with 89 per cent in urban areas and merely about 26 per cent in rural regions,[738] despite Nigeria being endowed with numerous renewable energy sources.[739] Furthermore, Nigeria has been the principal oil and gas supplier in the area. For instance, in 2006, Nigeria signed the West African Gas Pipeline (WAGP) Treaty with Ghana, Togo, and Benin to facilitate the transmission of natural gas from Nigeria to these countries.[740] However, reports indicate that the Nigerian population experiences limited access to electricity, while Ghana continues to enhance its policies aimed at increasing electricity access for its citizens.[741] This research contends that Nigeria has the potential to establish a comparable agreement to promote renewable energy development within the sub-region.

Consequently, Nigeria could exert influence on other countries within ECOWAS by harnessing and developing its renewable energy resources, thereby reducing its dependence on fossil fuels and providing additional electricity to accommodate its expanding population. For instance, Nigeria continues to have a significant influence on ECOWAS policies due to its economic size, military capabilities, normative engagement, and diplomatic influence. Specifically evident are its effects on regional governance frameworks, economic integration, and peace and security.[742] However, to maintain this influence, Nigeria must implement more

[738] World Bank, 'Access to Electricity – Nigeria' <https://data.worldbank.org/indicator/EG.ELC.ACCS.ZS?locations=NG > assessed 17 March 2024.
[739] Oyedele and others (n 795)
[740] West African Gas Pipeline Authority, 'About Us' < https://www.wagpa.org/about-us/ > accessed 12 May 2025.
[741] Mourad Belguedj, 'The West African Gas Pipeline and Power Pool Projects Building Blocks for Regional Energy Integration' (2006) <http://members.igu.org/html/wgc2006/pdf/paper/add21194.pdf > assessed 16 March 2024.
[742] Crisis Group, 'Restoring Nigeria's Leadership for Regional Peace and Security' (*Crisis Group*, 11 December 2024) <https://www.crisisgroup.org/africa/west-africa/nigeria/b203-restoring-nigerias-leadership-regional-peace-security> accessed 17 July 2025.

consistent domestic policies and increase its investment in sustainable development leadership, not least in sectors such as renewable energy.[743]

Nonetheless, it is essential to recognise that Nigeria's economy is primarily reliant on oil and gas transactions. As previously mentioned, Nigeria is unlikely to halt its oil and gas operations abruptly and immediately shift to renewable investments. There are several reasons Nigeria should not 'abruptly halt' its oil and gas operations, including a combination of political, infrastructural, and economic factors. These include the influence of special interest groups invested in the fossil fuel industry, the significant infrastructure required for the energy transition, and the country's heavy reliance on oil and gas revenues.

Additionally, there are financial and technological impediments to the widespread adoption of renewable energy. Nigeria aims to strike a balance between the continued development of its oil and gas sector and the advancement of renewable energy sources, both of which are crucial to the country's economic growth.[744] Instead, this transition should be reasonable, considering the effects of global warming and climate change by managing emissions and reducing greenhouse gas output, especially since the aforementioned new laws contain pertinent provisions. For example, Nigeria has been a member of the Organisation of Petroleum Exporting Countries (OPEC) since 1972 and continues to produce oil in accordance with OPEC agreements.[745]

Moreover, OPEC continues to encourage its members to maintain production despite the global climate crisis.[746] Therefore, a drastic shift based on international or regional legislation aimed at reducing reliance on fossil fuels or cutting down oil and gas production may not have a significant impact on Nigeria. For example, at the 28th Conference of the Parties (COP28) held in Dubai, it was reported that a letter had been leaked, purportedly dispatched to members of

[743] Dimas Garba, Nigeria's Contribution to Africa's Regional Integration: Assessment of its Recent Performance' (2023) 16 (2) AJPAS <https://dx.doi.org/10.4314/ajpas.v16i2.19> accessed 17 July 2025.
[744] Ashurst, 'Nigeria's Energy Transition' (*Ashrust*, March 2022) <https://www.ashurst.com/en/insights/nigerias-energy-transition/> accessed 17 July 2025.
[745] Organisation of the Petroleum Exporting Countries, 'Nigeria' <https://www.opec.org/opec_web/en/about_us/167.htm > assessed 23 February 2024.
[746] ibid.

OPEC, cautioning them against committing to any energy transition targets, specifically phasing out fossil fuels, other than those focused on emission reduction. This implies that OPEC member countries were advised against reducing their production levels.[747] In conclusion, despite Nigeria's potential for renewable energy, it is likely to be a challenging endeavour. It could take years for the country to begin significant research and investment in renewable energy development.

4.5.2 Ghana's Renewable Energy Legal Framework

Ghana, as noted in Chapter One, also played a significant role in the founding of ECOWAS. Regarding renewable energy development and the increasing demand for electricity, not least the global call for mitigation and adaptation to the impacts of climate change alongside achieving the United Nations' Sustainable Development Goals (SDGs), Ghana, like most sub-Saharan African countries, is working hard to develop its renewable energy resources. Before the discovery of oil and gas, Ghana had vast renewable energy resources, which are highlighted in its 2011 Renewable Energy Act.[748] Aboagye and others, in their study of Ghana's renewable energy potentials, note that the country has substantial deposits of renewable energy such as hydro, geothermal, biomass, solar, wind, sewage gas, biofuel, and ocean energies that, if harnessed, can improve the living conditions of Ghanaians while also reducing the negative impacts of climate change.[749] According to the World Bank, Ghana's population was 33,475,870 as of 2022.[750] As of 2023, approximately 86 per cent of Ghana's population has access to electricity.[751] Ghana's electricity is sourced from both renewable and non-

[747] Damian Carrington, 'OPEC rails against fossil fuel phase-out at COP28 in leaked letters' The Guardian (Abuja, 8 December 2023) <https://www.theguardian.com/environment/2023/dec/08/opec-rails-against-fossil-fuel-phase-out-at-cop28-in-leaked-letters> assessed 16 March 2024.
[748] Ghana Renewable Energy Act 2011 (Act) 832, s 2.
[749] Bernard Aboagye, Samuel Gyamfi, Eric Antwi Ofosu and Sinisa Djordjevic, 'Status of renewable energy for electricity supply in Ghana' (2021) 11 SA <https://www.sciencedirect.com/science/article/pii/S2468227620303963> assessed 26 February 2024.
[750] World Bank, 'Population, total-Ghana' (2022) <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=GH > assessed 26 March 2024.
[751] World Bank, 'Access to electricity – Ghana' (2023) <https://data.worldbank.org/indicator/EG.ELC.ACCS.ZS?locations=GH> assessed 17 March 2024.

renewable energy sources, with 10 per cent from renewable and 90 per cent from non-renewable sources.[752]

4.5.2.1 Legislation

Ghana is one of the ECOWAS countries that have been applauded for having detailed renewable energy legislation to manage and regulate its renewable energy sector.[753] Ghana's quest to improve the living standards of its citizens through harnessing its renewable energy resources dates to the 1980s.[754] Currently, Ghana's primary renewable energy legislation is the Ghana Renewable Energy Act.[755] The Act was enacted to coordinate and promote renewable energy activities in Ghana. To promote, invest in, and support renewable energy development and use in Ghana, the 2011 Act made several provisions, including the establishment of a Renewable Energy Authority, a Renewable Energy Fund, Feed-in Tariffs (FiTs), and Renewable Energy Purchase Obligations.[756] There is also the 2019 Ghana Renewable Energy Master Plan, which aims to promote and develop renewable energy sources.[757] In 2020, the 2011 Renewable Energy Act was amended to update Ghana's renewable energy legislation, with the enactment of the Ghana Renewable Energy (Amendment) Act 2020 (Act 1045).

4.5.2.2 Policies and Initiatives

Ghana's earlier target was to allocate 10 per cent of its energy mix to renewable energy by 2020. However, when studies showed that this target could not be attained, Ghana developed the 2019 Renewable Energy Master Plan to extend it to 2030.[758] Takase and others, in their 2022 examination of Ghana's renewable energy potential and energy statistics, found that Ghana had achieved 10 per cent

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[752] Mohammed Takase, Michael Aboah and Rogers Kipkoech, 'A Review on renewable energy potentials and energy usage statistics in Ghana' (2022) 11 FC < https://www.sciencedirect.com/science/article/pii/S2666052022000152 > assessed 17 March 2024.

[753] Aboagye and others (n 749).

[754] ibid.

[755] Ghana Renewable Energy Act (n 748).

[756] ibid.

[757] Ghana, 'Ghana Renewable Energy Master Plan' (2019) <https://www.undp.org/sites/g/files/zskgke326/files/migration/cn/UNDP_GH_SUS_DEV_REN_MASTER_PLAN_2019.pdf> assessed 17 March 2024.

[758] Aboagye and others (n 749).

renewable energy in its energy mix as of 2020.[759] This implies that Ghana is making progress toward its renewable energy target. As noted above, an earlier study claimed that Ghana's 2020 target of 10 per cent renewables in its energy mix was not feasible; however, Ghana ultimately achieved its target by establishing a new target with additional measures to meet the 2020 goal.[760] Ghana's proactive response in introducing its 2019 Renewable Energy Master Plan is commendable. This further implies that Ghana's renewable energy sector may implement monitoring and evaluation mechanisms, thereby enabling a timely response to amend its earlier Renewable Energy Master Plan and meet its set target, as noted above.

Accordingly, on its INDCs, in line with the GSGDA2, Ghana submitted twenty mitigation and eleven adaptation programme actions to the United Nations.[761] Following the implementation of its INDCs, Ghana aims to achieve low-carbon, climate-resilient development by effectively adapting to and reducing greenhouse gas (GHG) emissions in identified priority areas.[762] Priority areas include sustainable energy security, sustainable land use, climate-proof infrastructure, equitable social development, sustainable forest management, and alternative urban waste management. A major mitigation commitment under Ghana's INDCs is to increase the share of renewable energy in its energy mix by 2030. The adaptation goal is prominent in promoting good governance and intersectoral coordination, as well as in outreach to inform the community and educate its citizens about the impacts of climate change.[763] Ghana has also committed to reducing greenhouse gas emissions and addressing the effects of climate change. A close examination of Ghana's renewable energy sector reveals that the 2019 Renewable Energy Master Plan is an initiative responding to Ghana's commitment to the Paris Agreement. Consequently, it is taking measures to improve the living standards of its citizens and implementing necessary domestic actions to mitigate and adapt to the impacts of climate change, as outlined in the Paris Agreement. As requested by the Paris Agreement, Ghana, alongside other countries with

[759] Takase and others (n 752).
[760] Aboagye and others (n 749).
[761] ibid.
[762] ibid.
[763] ibid.

renewable energy legal frameworks, created the Ghana Shared Growth Development Agenda II (GSGDA2).[764]

4.5.2.3 Assessment of Ghana's Renewable Energy Legal Framework

It is worth noting that, before the enactment of the 2011 Act by the Ghanaian parliament, Ghana had a robust and ambitious renewable energy development plan; however, there was limited progress in increasing the share of renewable energy in its energy mix.[765] A major pre-2011 initiative to promote renewable energy development and use in Ghana was the 2003 Renewable Energy Strategy, which included three major programmes: the Strategic National Energy Plan (SNEP), the Traditional Energy Development and Management Programme, and the Renewable Energy Development and Management Programme (REDP).[766] Thus, the 2011 Act not only consolidated existing renewable energy policies and programmes in Ghana but also established a well-structured institutional framework to manage Ghana's renewable energy sector and integrate it into the country's energy sector.

In light of the assessment of Ghana's renewable energy sector and its development trajectory, this researcher argues that, with respect to legislation and policies that support renewable energy initiatives, Ghana is performing favourably and may be well-positioned to meet its INDCs by 2030, provided its policies are effectively implemented. This claim is supported by Ghana's proactive stance regarding its renewable energy legislation. For example, alongside the introduction of a Renewable Energy Master Plan in 2019 aimed at achieving its renewable energy targets, the Ghanaian Parliament also enacted amendments to the 2011 Renewable Energy Act in 2020, which helped reduce the financial burdens associated with renewable energy technologies.[767] Ghana possesses a strong legal framework for renewable energy, which improves enforceability and minimises implementation gaps.

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[764] Republic of Ghana, 'Ghana's nationally determined contributions' (2015 <https://www4.unfccc.int/sites/submissions/INDC/Published%20Documents/Ghana/1/GH_INDC_2392015.pdf > assessed 17 March 2024.

[765] Aboagye and others (n 749)

[766] ibid.

[767] George Tettey, Emefa Aku Ansah and William Asante, 'The politics of renewable energy transition in Ghana: Issues, obstacles and prospects' (2025) 120 ERSS <https://www.sciencedirect.com/science/article/pii/S2214629625000209 > accessed 12 May 2025.

The Renewable Energy (Amendment) Act 2020 revised the 2011 Act to make it more investor-friendly and practical.[768] The 2020 Act includes the following: a Renewable Energy Fund Mechanism with specific sources, administration, and uses, such as providing subsidies for mini-grids, feed-in tariff reform and competitive bidding, net-metering and distributed generation support, promotion of local content and manufacturing, and private sector participation and licensing.[769] Essentially, it establishes legally enforceable obligations for energy service providers, investors, and regulators in Ghana as an Act of Parliament. Additionally, regulatory agencies such as the Public Utilities Regulatory Commission (PURC)[770] and the Energy Commission,[771] have the authority to impose penalties for noncompliance, enforce standards, and issue licenses. The Renewable Energy Sub Codes for grid integration,[772] Net Metering Codes,[773] and Mini Grid Stand-Alone System Regulation[774] are subsidiary legislation that support Ghana's renewable energy laws.

Nevertheless, inquiries may persist as to whether the mere establishment of legislative frameworks is adequate for stimulating renewable energy utilisation and facilitating energy transition on both national and regional scales, or whether further actions are necessary with regard to the execution and oversight of renewable energy policies, programmes, and support frameworks to achieve these objectives. This consideration is crucial, as it is essential not only to have ambitious regulations and policies — similar to those observed in Nigeria — but also to implement measures for the evaluation and enforcement of such

[768] ibid.
[769] ibid.
[770] Public Utilities Regulatory Commission Ghana, 'Who we are' < https://www.purc.com.gh/who-we-are > accessed 6 August 2025.
[771] Ghana Energy Commission, 'Who we are' <https://www.energycom.gov.gh/index.php/about-us > accessed 6 August 2025.
[772] Energy Commission, 'Energy Commission Net Metering Code (2023) 1, 2 <https://www.energycom.gov.gh/index.php/regulation/renewable-energy-if?download=402:energy-commission-net-metering-code-2023 > accessed 6 August 2025.
[773] ibid.
[774] United Nations Economic Commission for Africa, 'Regulatory Review of the Electricity Market in Ghana: Towards Crowding-in Private Sector Investment' (*UNECA,* 2021) <https://res4africa.org/wp-content/uploads/2023/04/RegulatoryReviewofElectricitySectorinGhana.pdf> accessed 17 July 2025.

legislation, including financing initiatives for renewable energy projects. For instance, Obeg-Drako, in an analysis of the renewable energy legal frameworks in Gambia and Nigeria, argues that while legislative instruments may be crucial for the progression and utilisation of renewable energy, they alone do not guarantee improved governance within the renewable energy sector.[775] This analysis also considers the absence of financial resources and the economic development of the nations, as well as the lack of policy monitoring and implementation mechanisms. Nonetheless, this research argues that the pertinent legal framework should address the financial considerations related to the advancement of renewable energy technologies, including ensuring that the laws and policies are binding and enforceable at both national and regional courts. Consequently, this research argues that a collaborative effort is necessary, with due regard for the varying levels of economic development among the countries.

4.5.3 Liberia's Renewable Energy Legal Framework

As indicated in Chapter Two, Liberia represents the sole country within the ECOWAS with English as its official language; however, it was not colonised by the British. It has also been established that Liberia attained the status of a Republic in 1847, before the other ECOWAS nations that subsequently achieved independence. According to the World Bank, as of 2022, Liberia's population stands at Five Million Three Hundred Two Thousand Six Hundred and Eighty-One (5,302,681).[776] Data shows that approximately 30 per cent of its population has access to energy, with 49.5 per cent of the urban populace and only 8.1 per cent of the rural populace benefiting.[777] As of 2019, around 3 per cent of its citizens had access to electricity from the national grid.[778] Liberia is recognised as one of

[775] Nana Asare Obeng-Darko, 'Renewable Energy Development in Sub-Saharan Africa evidence for regulatory issues from the Gambia and Nigeria' 9 (4) RELP 36, 44 <https://www.jstor.org/stable/pdf/26912436.pdf?refreqid=fastly-default%3A9fbda66f169bd68300c4a39c6af77ac4&ab_segments=&origin=&initiator=&acceptTC=1 >assessed 17 March 2024.

[776] World Bank, 'Population, total – Liberia' <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=LR > assessed 26 March 2024.

[777] World Bank, 'Access to electricity (% of population) – Liberia' < https://data.worldbank.org/indicator/EG.ELC.ACCS.ZS?locations=LR > assessed 26 March 2024.

[778] Abdulfatah Abdu Yusuf, Howard F Kesselly, Adolphus Nippae, Charles Asumana, Maxwell O Kakulu, Ibrahim Sinneh Sinneh, Sylvester Z Gono and Raymond B Mayango, 'A Comprehensive review of Liberia's energy scenario: Advancing energy access, sustainability, and policy implications' (2024) 51 ESR

the ECOWAS nations confronting considerable challenges in advancing its energy sector, which has contributed to the country's relatively low electricity access rate.[779] Nevertheless, it is essential to recognise that Liberia's fourteen years of civil conflict may have negatively impacted its economic and social development, including the advancement of its renewable energy sector.[780]

4.5.3.1 Legislation

Liberia's renewable energy sector is emerging; however, it faces several challenges that contribute to the country's ongoing dependence on unhealthy cooking and heating fuels. Nevertheless, Liberia has implemented energy laws, including renewable energy policies, aimed at enhancing access to clean, affordable, secure, and environmentally friendly energy sources for its citizens. Liberia's legislation includes the Liberia Electricity Law of 2015 and the Rural and Renewable Energy Agency Act (RREA) of 2015, which was established to manage rural electrification projects. Liberia's renewable energy development policies and initiatives are highlighted below at section 4.5.3.2.

A recent study examining Liberia's energy legal framework reveals that the country continues to face challenges in developing its energy sector, characterised by reported limited access to electricity and a significant dependence on traditional biomass and the importation of fossil fuels.[781] These significant deficiencies within Liberia's energy sector legal framework render the review of Liberia's emerging renewable energy sector pertinent to the present research. The researcher asserts that integration within the ECOWAS can be utilised to enhance both the domestic and regional renewable energy legal frameworks. For instance, Chapter Three identifies one benefit of regional integration: that relatively smaller countries, such as Liberia, can experience economic and social growth through membership in the bloc; and Benin Republic and Togo enjoy the

<https://www.sciencedirect.com/science/article/pii/S2211467X24000026?ref=pdf_download&fr=RR-2&rr=867355c61f973692> > assessed 20 March 2024.

[779] ibid.

[780] Presley K Wesseh and Bogiang Lin, 'Renewable energy technologies as beacon of cleaner production: a real options valuations analysis for Liberia' (2015) 90 JCP 300, 310 <https://www.sciencedirect.com/science/article/abs/pii/S0959652614012669 > assessed 20 March 2024.

[781] Yusuf and others (n 778)

sub-region electricity network provided by WAPP.[782] In Chapter Five, this argument re-echoed, where the models of integration employed by the EU and ECOWAS were further evaluated in relation to the renewable energy development and energy transition legal frameworks of both organisations. Additionally, this section further examines Liberia's renewable energy sector, including its policies, programmes, and Nationally Determined Contributions (NDCs). Like Ghana and Nigeria, Liberia also presented its climate change mitigation and adaptation strategies in response to the United Nations Framework Convention on Climate Change.

It is worth noting that Liberia has significant deposits of renewable energy sources, including hydroelectric, solar, wind, and biomass.[783] However, biomass is Liberia's primary source of renewable energy, currently used for cooking and heating.[784] As of 2009, Biomass (traditional firewood and charcoal) reportedly meets approximately 99.5 per cent of Liberia's energy needs,[785] currently accounting for about 80 per cent.[786] According to the WHO, every year, over Three Million (3M) people, including women and children, mostly from developing and vulnerable countries, die as a result of household air pollution caused by the use of solid fuels, which include firewood and charcoal.[787] As noted by the WHO, the health-damaging effects of cooking with firewood and charcoal are enormous.[788] This is why developing and vulnerable countries that still rely on traditional and harmful sources of energy should be supported in accessing clean, affordable, and secure sources of renewable energy. Biomass, as noted above, can be a renewable source of energy; however, traditional sources of biomass, such as firewood and charcoal, are often associated with health risks. However, these could become useful and

[782] Mohamed A Eltahir Elabbas, Laurens de Vries and Aad Correljé, 'African power pools and regional electricity market design: Taking stock of regional integration in energy sectors' (2023) 105 ERSS <https://doi.org/10.1016/j.erss.2023.103291.> accessed 16 July 2023.
[783] Wesseh and Lin (n 780).
[784] Anelia Milbrandt, 'Assessment of Biomass resources in Liberia' (2009) NREL v < https://www.nrel.gov/docs/fy09osti/44808.pdf > assessed 26 March 2024.
[785] ibid.
[786] Yusuf and others (n 778)
[787] World Health Organisation, 'Household air pollution: key facts' (*WHO*, 15 December 2023) < https://www.who.int/news-room/fact-sheets/detail/household-air-pollution-and-health > assessed 26 March 2024.
[788] ibid.

environmentally friendly with the development and application of relevant technologies.

4.5.3.2 Policies and Initiatives

In 2009, Liberia established the National Electricity Policy (NEP) to reorganise its energy sector in the aftermath of the Civil War.[789] Other policies include the Liberia Rural and Renewable Energy Act (RREA) of 2015, the Renewable Energy and Energy Efficiency Policy Action (REEEP) of 2015, the Rural Electricity Strategy and Master Plan (RESMP), the National Renewable Energy Action Plans (NREAP) of 2015, and the Sustainable Energy All Action Plan of 2015.[790] Liberia is also one of the beneficiaries of the African Development Bank (AFDB) Group's project aimed at Scaling Up Renewable Energy Programmes in Low-Income Countries.[791] The AFDB, through the above project, supports Liberia with funding from the Liberia Renewable Energy Project – Scale-Up Renewable Energy (SREP).[792] The World Bank and the United States, through the United States Agency for International Development (USAID), also fund Liberia's Renewable Energy Project.[793] For instance, in June 2024, the World Bank remitted USD 45 million to support Liberia's Renewable Energy Project.[794]

Liberia's NDC submission comprises forty-one (41) pages, and reference was made only to the commitments relevant to the review in this research.[795] At the end of the NDC, an estimated cost of USD 490,590,000 from 2025 to meet its mitigation and adaptation targets was submitted.[796] Although in June 2024 the World Bank

[789] Wesseh and Lin (n 780).
[790] Yusuf and others (n 778).
[791] African Development Bank Group, 'Scaling Up Renewable Energy Programme in Low Income Countries: Liberia Renewable Energy project' (2017) <https://fifspubprd.azureedge.net/cifdocuments/Project/1906/1906_SREP%20Liberia%20-%20AfDB_Renewable%20Energy%20Project%20-final.pdf > accessed 6 August 2025.
[792] ibid.
[793] ibid.
[794] Matthew Goosen, 'World Bank Commits $45m to Liberia's Renewable Energy' (*Energy Capital & Power*, 28 June 2024) <https://energycapitalpower.com/world-bank-liberia-renewable-energy/ > accessed 6 August 2025.
[795] United Nations Climate Change, 'Republic of Liberia – Nationally Determined Contribution' (2021) <https://unfccc.int/sites/default/files/NDC/2022-06/Liberia%27s%20Updated%20NDC_RL_FINAL%20%28002%29.pdf > assessed 14 July 2024.
[796] ibid.

gave Liberia USD 45 million in support of its renewable energy project,[797] including USD 23 million from the AFDB, this falls short of Liberia's budget. For example, Liberia proposed that about USD 450 million would be required to meet its renewable energy projects. However, data shows that about a tenth of the amount has been accrued. This disparity is vast and can have a significant impact on Liberia's renewable energy development. Therefore, considering the amount submitted by Liberia in its NDC to meet its mitigation and adaptation targets from 2025, one can argue that finance remains a critical issue for Liberia's renewable energy sector. This further implies that Liberia needs more financial support, and without the necessary funding, Liberia's renewable energy projects are unlikely to be fully realised. Consequently, targets will not be met.

In its revised NDC submitted to the UNFCCC Secretariat in 2021, Liberia targets nine key sectors for mitigation measures, including agriculture, forests, coastal zones, fisheries, health, the transport industry, energy, and waste management.[798] On energy, Liberia committed to reducing greenhouse gas emissions by 40.6 per cent by 2030, to create the enabling environment for private sector investment into renewable energy development; to achieve at least 30 per cent renewable energy in its energy mix by 2030; and to provide and distribute energy saving cooking stoves to reduce the use of traditional biomass sources of energy such as firewood and charcoal for cooking.[799] Targeting the same Nine (9) key areas noted above for its adaptation measures, on the energy, its central commitment includes but is not limited to enacting policies to diversify its energy sources and to improve the adaptation capacity of the most vulnerable, since access to reliable and affordable electricity provides social and economic development.

5.3.2.3 Assessment of Liberia's Renewable Energy Legal Framework

Overall, based on the review above, particularly regarding Liberia's renewable energy legal framework, this research argues that Liberia's ongoing reliance on

[797] Goosen (n 794).
[798] United Nations Climate Change, 'Republic of Liberia – Nationally Determined Contribution' (2021) <https://unfccc.int/sites/default/files/NDC/2022-06/Liberia%27s%20Updated%20NDC_RL_FINAL%20%28002%29.pdf > assessed 14 July 2024.
[799] ibid.

harmful energy sources and the issues facing its energy sector stem not from a lack of legal framework but rather from financial constraints. For example, a report on Liberia's energy issues noted that the country faces shortages in electricity generation, transmission, and distribution.[800] Furthermore, in sub-Saharan Africa, Liberia has the highest electricity tariff, largely due to the high cost of producing fossil fuels.[801] Additionally, Fashina and others, in a review of Liberia's renewable energy sector, argue that the sector's challenges stem from financial constraints and limited capacity, which have hindered its development.[802] The authors identify other challenges that Liberia's renewable energy sector faces, including regulatory, institutional, political, and socio-cultural barriers.[803] Nonetheless, it is worth noting that Liberia's renewable energy sector is relatively new, and its growth has been hindered by a 14-year civil crisis that ended in 2003.[804] Therefore, this research argues that the issues identified could be addressed by the ECOWAS, especially by increasing electricity supply to its members, including Liberia. For instance, Fashina and others further contend that in Liberia's energy sector, the importance of renewable energy development policy cannot be overstated, given the significance of access to electricity for Liberians.[805]

4.5.4 Comparative Assessment of Nigeria, Ghana, and Liberia's Renewable Energy Legal Frameworks

The assessment of renewable energy legal frameworks in Nigeria, Ghana, and Liberia reveals that, to date, the ECOWAS 2003 Energy Protocol has had a limited impact on the national frameworks. For instance, the legal frameworks for

[800] ECOWAS Directorate for Energy and Mines (n 622) 53,129.
[801] Energy Capital & Power, 'World Commit s$45m to Liberia Renewable Energy' (*Energy Capital & Power*, 28 June 2024), < https://energycapitalpower.com/world-bank-liberia-renewable-energy/ > accessed 5 August 2025.
[802] Adebayo Adeboye Fashina, Oluwole Olusegun Akiyode and Dahiru Mohammed Sanni, 'The Status Quo of Rural and Renewable Energy Development in Liberia: Policy and Implementation' (2018) 1(1) SPCJE 9, 20 < https://www.researchgate.net/publication/326914486_The_Status_Quo_of_Rural_and_Renewable_Energy_Development_in_Liberia_Policy_and_Implementation > accessed 5 August 2025.
[803] ibid.
[804] Ministry of Lands, Mines and Energy Monrovia, *National Energy Policy an Agenda for Action and Economic and Social Development* (2009) 17, 18 <https://www.moci.gov.lr/sites/default/files/documents/National%20Energy%20Policy%202009.pdf > accessed 4 August 2025.
[805] Fashina and others (n 802).

renewable energy in the reviewed countries show no synergy attributable to the Energy Protocol or its aims. This is also evident in the disparities in the NDCs submitted by these countries. Each country has different priority areas and lacks clear targets. Nigeria is committed to reducing greenhouse gas emissions in tonnes. It aims to achieve 31 per cent of its energy mix from renewables by 2023, while Ghana and Liberia seek to scale up renewable energy in their respective energy mixes by 2030. It can be argued that the other twelve members not assessed in the current research will have differing commitments and priority areas submitted to the United Nations. This raises further questions about the domestic effect of the Energy Protocol more than two decades after its establishment.

As shown in *Table 3* above, there is a notable disparity in access to electricity across the ECOWAS region. Thus, this researcher argues that this situation may be addressed by leveraging ECOWAS integration to enact relevant laws and policies that promote renewable energy sources at both national and regional levels. Notably, in areas where regional integration is deemed necessary, energy plays a central role. For instance, in Chapter Three of this research, the energy (coal) issue was central to European integration, notably in the context of regional integration. This led to the signing of the Treaty of Paris, which established the European Coal and Steel Community. However, the economic interests of that era supported the use and expansion of coal. On the contrary, the situation with expanding renewables is different because countries want to be in control of their energy security; meanwhile, the technology is relatively new and requires collective action, expertise and finance to develop it.

Moreover, the need for a transition to renewables, discussed in Chapter One and elsewhere in the thesis, underscores the strategic importance of renewables. As in the days of coal use, energy and increased access to it has been central to ECOWAS integration. This is evident in the Energy Protocol of ECOWAS, which calls for collaboration and harmonisation of energy laws and policies, and consequently, the establishment of specialised institutions such as WAPP and ECREEE to manage ECOWAS energy issues. To this end, a brief examination of the evolution of the ECOWAS energy outlook remained necessary for the evaluation in the current chapter. This further illustrates how the existing energy legal

framework of ECOWAS has impacted its energy outlook and increased access to energy for its citizens.

Philip and others examined eleven of the fifteen ECOWAS members' SDGs and INDCs, finding a notable disparity in their targets and commitments.[806] The authors contend that there is a deficiency in synergy and interaction among the various INDCs submitted by these eleven ECOWAS countries, thereby emphasising the economic and developmental risks arising from this lack of coherence in strategies.[807] The study further points out that the cooperation and harmonisation of ECOWAS energy policies, as outlined in the Energy Protocol, remain unrealised.[808] Additionally, there is a pronounced disparity in electricity access rates among the three countries, illustrating inadequate collaboration among ECOWAS members and deficiencies in the Protocol. There is also a shortfall in expertise for developing their respective legal frameworks, which is compounded by geopolitical factors that hinder the advancement of renewable energy. Notably, Nigeria is heavily reliant on fossil fuels, and there is a notable lack of incentives and financial resources for investing in renewable energy.

This research demonstrates that renewable energy challenges in ECOWAS reveal that this sub-region faces the highest electricity costs globally, primarily due to its reliance on fossil fuels. An earlier analysis of Liberia suggests that energy concerns within the ECOWAS sub-region must be managed collectively at both national and regional levels. This can potentially be achieved by leveraging ECOWAS integration to demonstrate its impact on energy policies. Furthermore, inconsistencies and vague policies may lead to unachieved targets. The ongoing reliance on unhealthy cooking energy sources in Liberia, along with Nigeria's continued dependence on fossil fuels, could also be tackled regionally through suitable policies, initiatives, technologies, and expertise. For instance, Nigeria, Ghana, and Liberia possess various renewable energy resources that, if effectively harnessed with the right technologies, could provide both urban and rural populations with clean, reliable, and affordable electricity.

[806] Antwi-Agyei (n 135).
[807] ibid.
[808] ibid.

Thus, this researcher maintains that some national energy-renewable energy legal frameworks should be reviewed by the ECOWAS, as well as the EU's energy-renewable energy legal framework, to derive best practices, including implementation, monitoring, and evaluation mechanisms for renewable energy policies, projects, programmes, and technologies at the regional level. Nevertheless, in reviewing the EU's renewable energy legal framework to deduce lessons for the ECOWAS sub-region, it is worth noting that this researcher is not oblivious to the fact that the EU countries are developed, rich, and as indicated in Chapter Two of this research, have benefited enormously from the historical exploitation of other countries. This research argues that this may be why the EU countries all have at least 99 per cent access to electricity[809] compared to the ECOWAS countries, which are all developing economies and still suffering from the political, economic, and social impacts of colonialism, as noted in Chapter Two of this research.

4.6 How Does The Existing ECOWAS Renewable Energy Legal Framework Promote Renewable Energy Development And Energy Transition In The Sub-Region?

The ECOWAS Renewable Energy Legal Framework plays a vital role in promoting the development of renewable energy and supporting the transition to sustainable energy in the West African sub-region. In this section, the researcher evaluates the contribution of the ECOWAS renewable energy legal framework to the development of renewable energy sources and to accelerating the energy transition. As a result, this assessment includes the alignment and coordination of policies, collaboration at the regional level, support from regulatory bodies and institutions, technological advancements and skills development, methods for managing and facilitating financial transactions, encouraging investment, promoting sustainable development and environmental conservation, and ensuring universal access to secure, sustainable, and affordable energy while also fostering social inclusivity.

[809]World Bank, 'Access to electricity (% of Population) -European Union' <https://data.worldbank.org/indicator/EG.ELC.ACCS.ZS?locations=EU > assessed 14 July 2024.

4.6.1 Alignment and Integration of Policies

The ECOWAS needs standardised policies and objectives to promote secure, sustainable, and affordable energy for its seemingly growing population. Essentially, ECOWAS integration must pursue the alignment and harmonisation of its renewable energy laws and policies at both domestic and regional levels. The EREP, in addition to setting regional targets for renewable energy, must also encourage the implementation of standardised policies among member states. Additionally, the ECOWAS renewable energy and energy transition strategy must formulate regional strategies and action plans to ensure synchronised endeavours in advancing renewable energy and energy transition. Indeed, as rightly argued by Karaki, further work remains because, without a binding enforcement mechanism that would provide greater predictability for regional and international investors, ERERA's Dispute Resolution Procedures and Enforcement Rules may not be effectively implemented.[810] Notably, if future regional energy infrastructure is to be feasible, further institutionalisation is necessary.[811]

4.6.2 Collaboration at National and Regional Levels

In furtherance of aligning the policies and promoting regional integration, ECOWAS member states should encourage resource sharing, including the exchange of technical and financial resources between member states, thereby facilitating the implementation of renewable energy projects that span across borders. This is about developing renewable energy resources in the region to improve access for citizens, but this research recognises that, in the case of ECOWAS members, at least as demonstrated here, national interests tend to overshadow regional ones. Nonetheless, in energy matters, cooperation and collaboration are essential. For instance, the Paris Agreement, the ECOWAS treaty, and the ECOWAS Energy Protocol all emphasise the importance of encouraging cooperation and collaboration for the sector's progress.

[810] Karim Karaki, 'Understanding ECOWAS Energy Policy From national interests to regional markets and wider energy access?' (2017) ECDPM 13, 15 <https://ecdpm.org/application/files/6216/6135/4987/ECOWAS-Energy-Background-Paper-PEDRO-Political-Economy-Dynamics-Regional-Organisations-Africa-ECDPM-2017.pdf> accessed 13 July 2024.

[811] ibid.

This research argues that the need for such cooperation and collaboration to address energy issues in the ECOWAS sub-region far outweighs national interests; hence, there is an advocacy for ECOWAS integration to adopt supranationalism in promoting renewable energy development and energy transition in the sub-region. According to their study, Akinyemi and others find that energy integration in the ECOWAS region offers potential and advantages for promoting sustainable development, including the utilisation of renewable energy resources.[812] Despite certain advancements in national frameworks, many obstacles remain, including inconsistent progress across the region, which may be attributed to factors such as population growth and political instability. The ECOWAS must encourage member states to prioritise the political economy of regional energy integration to ensure strong political support for achieving the set goals quickly. Furthermore, it is crucial to emphasise the importance of investing in human capital to oversee various projects and maintain the facilities effectively.[813]

Inherently, the founding ECOWAS Treaty supports market integration.[814] As a consequence, ECOWAS established a regional energy market that amalgamates renewable energy sources, thereby facilitating the exchange and financial support of energy resources across national boundaries. Consequently, in 1999, ECOWAS established the WAPP. In 2003, the ECOWAS Energy Protocol was introduced, aiming to foster long-term cooperation, enhance complementarity, and attract investments to bolster regional energy trade in West Africa. Furthermore, the ECOWAS Centre for Renewable Energy and Energy Efficiency was established in 2010. Nevertheless, despite these initiatives by ECOWAS, the energy markets in West Africa continue to face significant challenges, attributed to recurrent delays and transaction costs.[815] Moreover, these energy markets remain heavily reliant on thermal power from net exporters, including Nigeria, Ghana, and Côte d'Ivoire, which is underpinned by bilateral arrangements. Although additional

[812] Opeyemi Akinyemi, Uchenna Efobi, Evans Osabuohien and Philip Alege, 'Regional Integration and Energy Sustainability in Africa: Exploring the Challenges and Prospects for ECOWAS' (2019) 31 (4) ADR <https://onlinelibrary.wiley.com/doi/epdf/10.1111/1467-8268.12406> accessed 6 August 2025.
[813] ibid.
[814] ECOWAS Treaty 1975 (n 10).
[815] Karaki (n 810).

infrastructure is being developed, including new renewable power plants, progress is hindered by inadequate payment and enforcement mechanisms.[816]

4.6.3 Support from Regulatory Bodies and Institutions

- **Legal and Regulatory Frameworks**

ECOWAS has developed many standardised renewable energy laws and regulations that member states can adopt or modify, creating a uniform legal framework that promotes investments in renewable energy. However, this research demonstrates that the legal and regulatory frameworks are weak, which may be why members have not specifically adopted these laws and policies. Nonetheless, it is an appropriate practice for ECOWAS to develop and share regional standards and codes for renewable energy technologies, thereby guaranteeing their quality and dependability. For instance, the EU legislates on renewable energy through Directives that member states are obligated to incorporate into their national legal frameworks.[817] This is further discussed in Chapter Five.

- **Institutional Strengthening Capacity Building**

Establishing training institutions and building capacity for national regulatory authorities and other relevant stakeholders can improve their ability to implement and enforce renewable energy policies. ECOWAS member states have not yet developed sufficient renewable energy expertise to provide essential technical assistance, which is vital for renewable energy development. In this regard, ECREEE has organised conferences and workshops to strengthen capacity and raise awareness about renewable energy resources. However, these conferences have not necessarily advanced renewable energy across the sub-region.

4.6.4 Methods of Managing and Facilitating Financial Transactions and Promoting Investment

Mainly, financial incentives encourage investment.[818] Conceptually, incentive schemes promote the adoption of financial incentives, such as tax exemptions,

[816] ibid.

[817] Renewable Energy Directive 2023 (n 83).

[818] Sikandar Abdul Qadir, Hessah Al-Motairi, Furqan Tahir, Luluwah Al-Fagih, 'Incentives and strategies for financing the renewable energy transition: A review' (2021) 7 ER 3590, 3606 <https://doi.org/10.1016/j.egyr.2021.06.041.> accessed 28 April 2025.

subsidies, and feed-in tariffs, by member states to attract investments in renewable energy.[819] As noted earlier, financing remains a major barrier to implementing renewable energy projects in the ECOWAS sub-region. Consequently, ECOWAS established policies and programmes to attract financial incentives, thereby promoting investment in RE projects. In 2011, the ECREEE established the ECOWAS Renewable Energy Investment Initiative (EREII) and the Renewable Energy Facility (EREF) to provide grants for small- to medium-scale renewable energy projects in rural and semi-urban areas of the ECOWAS sub-region.[820] For example, the first funding from this programme provided about one million Euros to implement 41 projects spread across all 15 Member States. However, most investments in RE projects in the ECOWAS sub-region originate from outside the sub-region.[821] It is evident that ECOWAS has set the appropriate financial incentives to support RE development; however, the impact of RE contributions on the energy mix remains low. In addition, the ECOWAS RE legal framework is not binding on member states.

4.7 Key Challenges of Renewable Energy Development and Energy Transition in ECOWAS

The ECOWAS faces numerous significant challenges in promoting renewable energy and transitioning to clean energy sources. For instance, Oke assesses the legal and systemic challenges hindering energy security and access in the ECOWAS sub-region, identifying factors such as corruption, financing, poverty, a lack of technical expertise, and difficulties in supply, generation, and transmission.[822] However, this research categorises these challenges into five broad areas: regulatory, financial, technical, infrastructural, and socio-political issues. These challenges primarily stem from deficiencies in ECOWAS' governance structure, which hampers effective management of the energy sector at both national and regional levels. However, this research emphasises the potential for leveraging ECOWAS integration to facilitate the development of renewable energy and

[819] ibid.

[820] REN21, ECOWAS Renewable Energy and Energy Efficiency Status Report 2014, <https://www.ren21.net/Portals/0/documents/activities/Regional%20Reports/ECOWAS_EN.pdf> accessed 14 July 2024.

[821] ibid 164.

[822] Yemi Oke, *Generation and Energy Access in Western Africa: Perspective from WAPP Countries* (University of Lagos University Press 2021) ch 1.

support the energy transition within the ECOWAS sub-region. Therefore, the identified challenges necessitate attention through appropriate governance structures and institutional coordination. Consequently, this suggests that the ECOWAS integration model can be enhanced to fulfil the objective of providing its population with secure, sustainable, and affordable energy.

4.7.1 Regulatory

Indeed, the roles of effective policy, strategic planning, and rigorous regulation are essential for collaboratively establishing national markets that facilitate the implementation of a well-functioning regional electricity market.[823] The analysis of ECOWAS integration in this research shows that ECOWAS aims to create a collaborative national and regional legal framework for its energy sector. However, the existing ECOWAS legal framework studied thus far falls short, as the policy and regulatory frameworks are inadequate and lack coherence, hindering the development of renewable energy.[824] For instance, Bassiri and others in a study on the ECOWAS renewable energy legal framework argued that the ECOWAS renewable energy legal framework is 'half-hearted'.[825] They agree that there is weak renewable energy investment planning, inconsistent regulation, and a lack of harmonisation within the regulatory framework, which is often not aligned with the regional vision.[826]

4.7.2 Financial

Renewable energy projects entail substantial initial expenses. ECOWAS continues to witness serious financial constraints.[827] For example, Oke identified financing as one of the contributing factors to energy access and security in the ECOWA sub-

[823] Mounirah Bissiri, Patrícia Pereira da Silva, Pedro Moura, Nuno Carvalho Figueiredo, Are West Africa's policy, planning, and regulatory frameworks missing the harmonization piece of the power pooling-renewable energy puzzle?, (2024) 190 EP < https://doi.org/10.1016/j.enpol.2024.114161. > assessed 28 April 2025.
[824] ibid.
[825] ibid.
[826] Peter Kayode Oniemola, Jennifer Ejen Eyam and Soibi O Bob-Manuel, 'Towards Sustainable Energy in ECOWAS: Insights from the EU Model of Regional Cooperation for Energy Transition', (2025) 52 (1) LIEI 89, 112 <https://kluwerlawonline.com/journalarticle/Legal+Issues+of+Economic+Integration/52.1/LEIE2025005 > assessed 28 April 2025.
[827] ibid.

region.[828] Inherently, the high cost of technology, installation, and infrastructure can hinder the development of renewable energy in the ECOWAS sub-region. Furthermore, limited access to international funding presents a significant barrier to securing financial resources for these projects. However, many ECOWAS member states are increasingly seeking Public-Private Partnerships (PPPs) in power infrastructure, involving the private sector to help alleviate some of the burden on state-owned utilities. Typically, liberalisation has been implemented by allowing Independent Power Producers IPPs to participate in the generation segment. Consequently, these are specialised forms of PPPs being developed to address the financial constraints faced by governments and enhance investor trust in the infrastructure sector.[829] Another critical constraint is investment risks, such as political and economic instability in the sub-region, including unstable governments, coups and countercoups, and volatile economic forces.[830] All these instabilities hinder the attraction of investors.

4.7.3 Technical

Technical expertise poses a significant challenge for the ECOWAS sub-region in optimising its renewable energy resources and facilitating energy transition.[831] However, personnel with specialised knowledge in renewable energy technologies and systems remain scarce in the sub-region. Furthermore, the mechanisms for technology transfer are inadequate for research and development facilities, resulting in limited capacity to adopt and implement advanced renewable energy technologies. Given that renewable energy resources are predominantly intermittent, this highlights the necessity for appropriate technology and expertise to enable their development, utilisation, and storage. For instance, solar and wind power, which qualify as renewable energy sources, exhibit intermittent generation patterns; consequently, a reliable energy supply necessitates the deployment of effective energy storage solutions and efficient grid management.

[828] Oke (n 822).
[829] ibid.
[830] ibid.
[831] Oke (n 822).

4.7.4 Ecological Dilemmas

The overview of the ECOWAS energy outlook in Section 4.4 above shows that not all ECOWAS members are endowed with petroleum resources. However, as discussed in the same section, IRENA's findings on the region's renewable energy potential indicate that all countries are endowed with renewable energy resources, albeit in varying quantities, and these can be harnessed collectively to power the region. Therefore, the availability of resources and the measures to manage them are essential. Although the area has substantial potential for solar, wind, and hydropower, the harvesting and distribution of these resources can be uneven. Additionally, the ECOWAS renewable energy infrastructure must be climate-resilient to withstand the adverse effects of climate change, including more frequent and severe extreme weather events in the region.

4.7.5 Interdisciplinary Concerns

The significance of regional cooperation within the ECOWAS sub-region cannot be overstated, particularly in renewable energy. Therefore, coordination and collaboration among ECOWAS member states are essential yet may pose challenges due to divergent national interests and disparate levels of development. Consequently, this affects data and information sharing, resulting in inadequate and unreliable data on renewable energy resources. Moreover, demand and supply dynamics can hinder planning and investment processes. To mitigate these challenges, a comprehensive strategy is necessary that involves increased financial resources, enhanced capabilities, policy and regulatory reforms, and the promotion of regional collaboration. International assistance and partnerships are instrumental in overcoming these barriers and supporting the transition to sustainable energy within ECOWAS. Nonetheless, this research argues that the ECOWAS approach to integration requires revision, particularly in addressing the energy needs of its citizens. Such revisions will enable the collective pooling of resources, expertise, and technology to advance renewable energy development, facilitate the energy transition, and foster sustainable development within ECOWAS.

4.8 Conclusion

The ECOWAS Renewable Energy Legal Framework, currently under review, aims to promote a coordinated, unified approach to advancing renewable energy across the sub-region. However, the framework has not effectively stimulated renewable energy development; as a result, it struggles to facilitate or support the transition to clean energy in the area. Moreover, the analysis of renewable energy legal frameworks in Nigeria, Ghana, and Liberia highlights an urgent need for better policy alignment, regulatory support, mobilisation of financial resources, encouragement of technological innovation, assurance of environmental sustainability, and promotion of social inclusion within the ECOWAS sub-region. Overall, this researcher argues that ECOWAS' current governance structure does not adequately support the advancement and harmonisation of its renewable energy legal framework. Consequently, Chapter Five of this research provides a critical analysis of the legal frameworks governing renewable energy development and energy transition in both the EU and ECOWAS. This includes a specific evaluation of the EU's legal framework to identify potential lessons that could be adopted.

CHAPTER FIVE

A CRITICAL ANALYSIS OF THE EU AND ECOWAS LEGAL FRAMEWORK FOR ADVANCING RENEWABLE ENERGY AND ENERGY TRANSITION: THE IMPACT OF REGIONAL INTEGRATION

5.1 Introduction

The 2023 World Energy Outlook, published by the IRENA, states that laws and policies supporting renewable energy and energy efficiency are essential drivers of the global energy transition.[832] Moreover, the report highlights that incorporating renewables offers opportunities for cost reduction, energy savings, and increased resilience, especially for low-income economies.[833] However, this research suggests that the ECOWAS model of integration, as outlined in Chapter Two, may not be effective in improving access to electricity for ECOWAS citizens or in addressing challenges related to energy poverty, security, supply, and affordability. Additionally, the analysis of the ECOWAS renewable energy and energy transition legal framework, detailed in Chapter Four, uncovers inconsistencies, a lack of coordination, misalignment, and the absence of harmonisation within the framework, indicating that the current structure is inadequate to support growth in renewable energy and energy transition at both national and regional levels. As discussed in Chapter Four, this situation primarily stems from the ECOWAS approach to integration, as thoroughly examined in Chapter Three, which has shaped the ECOWAS legal framework, particularly its governance structure.

Therefore, this research contends that ECOWAS' laws and policies on renewable energy and the energy transition lack the necessary national and regional impact, partly due to non-alignment and a lack of harmonisation within the framework, as well as the failure of member states to enforce ECOWAS court decisions. In contrast, Chapter Five shows that, regarding the development of renewable energy and the energy transition, EU integration is distinctive and successful in advancing its renewable energy and energy efficiency laws and policies because

[832] REN21, 'Renewables 2023 Global Status Report' (*IRENA*, 2023) 26 <https://www.ren21.net/gsr-2023/modules/global_overview/> accessed 12 August 2025.
[833] ibid.

of its approach to integration and its consequently binding legal framework, governance structure, and institutional competence, as outlined in Section 5.2 below. This chapter reviews the EU's renewable energy legal framework by examining treaty provisions, regulations, and directives that support renewable energy development and the energy transition, following the ECOWAS framework discussed in chapter four. The aim is to critically analyse how their respective regional integration arrangements influence the legal frameworks for renewable energy and the energy transition, focusing on the laws, policies, and governance structures within these frameworks, as well as the implications for alignment, monitoring, evaluation, and implementation of renewable energy laws and policies in ECOWAS, drawing lessons from the EU's experience.

5.2 An Assessment of the EU's Renewable Energy and Energy Transition Legal Framework Concerning the Impact of Regional Integration

Verma identified several ways for energy governance to succeed. These include establishing effective and inclusive institutions that are transparent, responsive, trustworthy, accountable, and capable of acting in a more coordinated manner across the entire government; creating a legal and regulatory framework conducive to promoting renewable energy development, thereby supporting the transition to clean energy innovations; and developing a framework with clearly defined enforcement mechanisms, alongside clear responsibilities and obligations.[834] Therefore, the methods identified by Verma strengthen the researcher's argument in Chapter Four, regarding the ECOWAS framework.

Thus, ECOWAS, alongside the challenges identified in chapter four, may review its existing renewable energy and energy transition legal framework, particularly its institutional competence for credibility, transparency, responsiveness, and accountability, to address energy poverty, the substantial disparity in energy access among its members, and to enhance the region's energy security, supply, and affordability concerns. Furthermore, the ECOWAS may establish a legal framework that delineates responsibilities and obligations, along with enforcement mechanisms, sanctions, and implementation measures, aligned at both national and regional levels, to promote and facilitate the transition to

[834] Verma (n 7).

renewable energy. This section examines the EU's key renewable energy development laws and policies, supported by related legislation that fosters the development of renewable energy resources and the energy transition, assessing their national and regional impacts through the EU's Treaty provisions, Renewable Energy Regulations, and Directives.

5.2.1 Legislation

Historically, the EU has been recognised for its dedication to tackling climate change and lowering greenhouse gas emissions, making the use and implementation of renewable energy sources a top priority on its agenda.[835] As discussed in Chapter Three of this research, the three founding treaties of the EU focus on energy. Conversely, the case of *Costa v Enel*, which also relates to energy, established a fundamental principle regarding the supremacy of EU law over national law,[836] thereby reaffirming the integration of the energy sector within the economic activities regulated by EU law and policy. Talus and Aalto argue that although energy has been central to the EU project since its beginning, it is the Lisbon Treaty of December 2009 that sets out the goals of the EU energy policy and provides a framework for the creation of EU-level regulations on renewable energy.[837] Therefore, the main legal provision for renewable energy in EU law is Article 194, which states that,

> 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 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.[838]

[835] Israel Solorio and Helge Jörgens, *A Guide to EU Renewable Energy Policy: Comparing Europeanisation and domestic policy change in the EU Member States* (UK: Edward Elgar Publishing 2017) ch 1.
[836] [1964] ECR 585.
[837] Kim Talus and Pami Aalto, 'Competencies In EU energy Policy' in Rafael Leal-Arcas (ed) *Research Handbook on EU Energy Law and Policy* (2nd edn, UK: Edward Elgar Publishing 2024) ch 2.
[838] TFEU (n 23) art 194.

Notably, the Lisbon Treaty is the first time the EU is granted competence in energy matters.[839] This indicates that, before the enactment of the Lisbon Treaty, the EU was not directly involved in the energy sector.[840] The Lisbon Treaty marks the first occasion in its history on which energy-specific competence has been formally recognised and vested.[841] Moreover, before the Lisbon Treaty, energy issues were considered too politically sensitive due to the importance of national energy security and member states' reluctance to cede control over their energy sectors.[842] Huhta argues that transferring the EU energy sector to transnational regulation remained considered impractical.[843] Nonetheless, the Lisbon Treaty changed this by embedding energy issues into primary legislation. This research argues that the inclusion of energy issues in the Lisbon Treaty highlights the EU's evolving and adaptable approach to global energy concerns, particularly in addressing environmental challenges, ensuring energy security, and promoting cooperation and joint efforts, notably in developing renewable energy sources and reducing emissions.

In essence, the Lisbon Treaty provides legal clarity, a robust framework for climate and energy integration, and enhanced coordination and security.[844] Also, from the above excerpt, it is worth noting the phrase, 'in a spirit of solidarity between member states.' This is because the phrase is significant, especially in EU energy law.[845] It implies a call for member states to cooperate among themselves and with EU institutions to ensure the safety and well-being of all members. For instance, in the case of *Germany v Poland*,[846] the CJEU observed that the 'spirit of solidarity' mentioned in Article 194 TFEU extends to actions that fall within the EU's energy policy framework.[847] Thus, it is a legal obligation for

[839] Solorio and Jörgens (n 835).
[840] ibid.
[841] Talus and Aalto (n 837).
[842] Kaisa Huhta, 'The Scope of State Sovereignty Under Article 194(2) TFEU and the Evolution of EU Competence in the Energy Sector' (2021) ICL 991,1010 < https://www.researchgate.net/publication/355829557_THE_SCOPE_OF_STATE_SOVEREIGNTY_UNDER_ARTICLE_1942_TFEU_AND_THE_EVOLUTION_OF_EU_COMPETENCES_IN_THE_ENERGY_SECTOR > accessed 12 August 2025.
[843] ibid.
[844] ibid.
[845] Talus and Aalto (n 837).
[846] Case – C848/19 P *Germany v Poland* ECLI/EU/2021/598.
[847] ibid.

member states and EU institutions to collaborate to ensure energy security and supply, the development of renewable energy, and the transition to and development of interstate energy networks.

Additionally, in the EU's legal framework, energy issues fall under shared competence, which includes exclusive,[848] shared[849], and supporting competencies.[850] This indicates that both the EU and its member states share responsibility for managing energy matters.[851] Hence, the relevance of the solidarity clause in Article 194(1) TFEU remains significant. Nonetheless, Talus and Aalto argue that introducing the 'solidarity' phrase in Article 194 TFEU is an attempt to create a corrective mechanism to the markets' failure to achieve energy supply and security.[852] Scholars like Talus and Aalto argue that inclusion serves as a corrective measure to address the inadequacies of liberalised energy markets in ensuring a stable and equitable supply across the EU.[853] Liberalised energy market principles were anticipated to guarantee efficiency, competition, and security.

By the mid-2000s, considerable structural vulnerabilities had surfaced, particularly in response to external shocks and geopolitical tension.[854] Weaknesses include insufficient investment in essential infrastructure, such as interconnectors and storage; excessive dependence on external suppliers; disjointed national policies; market failures during crises; and neglect of energy poverty.[855] Nevertheless, Antonio-Maria Martino argue that the solidarity clause could significantly contribute to the EU's global response, alongside the efforts made at the national level.[856] This emphasises the importance of the clause, highlighting

[848] TFEU (n 23) art 3.
[849] ibid art 4.
[850] ibid art 6.
[851] ibid art 4(i).
[852] Talus and Aalto (n 837).
[853] ibid.
[854] ibid.
[855] ibid
[856] Antonio-Maria Martino, 'The "Solidarity Clause" of the European Union – Dead Letter or Enabling Act?' (2016) 6 JPCP 40-51, <https://www.bmi.gv.at/104/Wissenschaft_und_Forschung/SIAK-Journal/internationalEdition/files/Martino_IE_2016.pdf> assessed 18 August 2025.

the impact of regional integration on contracting states' energy security, supply, and affordability, and the need for countries and institutions to work together on energy issues.

Moreover, energy issues are central to the EU's integration, given coal's historic role in the formation of the EU. For example, Chapter Three notes that after World War II, countries focused on fair distribution and production of coal and steel, especially during the ECSC treaty. Article 222 of the TFEU addresses defence, while Article 194 of the TFEU covers energy. Both articles reference 'in a spirit of solidarity,' highlighting that energy concerns, such as national security, are vital to EU unity and should be managed collectively, as both fall under shared competence. The solidarity clause in Article 222 is essential because it requires joint defence actions for attacked member states. Similarly, the phrase in Article 194 emphasises the importance of securing energy supplies, promoting renewable energy, supporting the energy transition, and strengthening energy networks across the EU. Overall, energy issues remain central to EU integration, underscoring their transnational nature that extends beyond individual national sovereignty. To align with these principles, the EU has introduced renewable energy Regulations and Directives, discussed below.

Subsequently, in accordance with the treaty provision requiring members to act together in solidarity on energy issues, the EU adopted two regulations on renewable energy, namely, Regulation (EU) 2018/1999,[857] and Commission Implementing Regulation (EU) 2020/1294.[858] Regulation (EU) 2018/1999,[859] sets out the five dimensions of the EU's Energy Union: energy security, solidarity, and trust; a fully integrated European energy market; energy efficiency; decarbonization of the economy; and research, innovation, and competitiveness.[860] The Regulation also establishes the legal framework for consistent, comprehensive, economical, transparent, and accountable

[857] European Parliament and Council Regulation 2018/1999 on the Governance of the Energy Union and Climate Action.
[858] Commission Implementing Regulation (EU) 2020/1294 on the Union renewable energy financing mechanism.
[859] Renewable Energy Regulation 2018 (n 27).
[860] European Commission, *Energy* COM/2015/ 080 Final < https://energy.ec.europa.eu/strategy/energy-union_en#ref-5-dimensions-of-the-energy-union > accessed 1 April 2025.

governance to achieve its climate objectives and targets in line with the Paris Agreement.[861] Given the significance of funding renewable energy initiatives, Regulation 2020/1294 establishes the essential provisions for executing the Union's renewable energy financing systems, thereby facilitating all programs aimed at deploying renewable energy throughout the EU.[862]

Accordingly, in response to global trends and ongoing concerns about climate change, which call for keeping world temperatures below 1.5^0C decrees and the increased use of renewables to facilitate energy transition, the EU updated its commitments through Regulation 2021/1119, an amendment to Regulation 2018/1999, which reinforces the EU's existing commitments, including new measures to adopt and mitigate the threats posed by climate change.[863] Critically, the EU's framework follows a supranational approach, which this research contends is a commendable move, and it is expected to yield results following implementation. It also reflects a move towards credible commitment. It indicates that the EU aligns with international trends and responds effectively, especially by evolving its position through legislation, such as the progressive renewable energy directives discussed later in this section.

Furthermore, this researcher argues that the EU's robust renewable energy legal framework has contributed to its success in providing access to electricity for its citizens, which, as of 2022, stands at 100 per cent for all EU members.[864] Scholars and industry experts have characterised the EU's legal framework as 'robust' for several reasons, including:

- Legally binding targets and policy certainty: The European Union has gradually implemented binding renewable energy targets since 2009, thereby fostering long-term certainty that stimulates investment and grid expansion. The regulatory stability and investment frameworks that were

[861] Regulation (EU) 2018/1999 (n 27).
[862] Regulation (EU) 2020/1294 (n 27) arts 1, 2.
[863] Regulation (EU) 2021/1119 (n 27).
[864] World Bank, 'Access to electricity (% of population) – European Union' < https://data.worldbank.org/indicator/EG.ELC.ACCS.ZS?locations=EU > accessed 3 April 2025.

required to modernise grid systems and expand access were provided by these laws.[865]

- EU Funding Mechanisms and Infrastructure Investment: These instruments facilitate infrastructure expansion in remote or underdeveloped regions, thereby reducing inequality in access to infrastructure.[866]

- Internal Energy Market and Consumer Rights: The Third and Fourth Energy Packages (2009, 2019) developed consumer protection frameworks and harmonised energy regulations throughout the EU. All member states are guaranteed non-discriminatory access to electricity under these laws.[867]

- Smart Grids and Digitalisation: The EU's support for the development of smart grids, demand-side management, and distributed generation (e.g., rooftop solar) has facilitated more localised access, particularly in hard-to-reach or rural areas. The Clean Energy for All Europeans Package decentralises energy supply and increases the resilience of access, thereby empowering energy communities and prosumers.[868]

- Renewable Energy Integration for Universal Access: EU law reduces geographic barriers to access by promoting decentralised renewable energy sources. Renewable energy sources enhance energy independence and supply continuity, even in remote areas.[869]

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[865] Rasmus Magni Johannsen, Brian Vad Mathiesen, Katerina Kermeli, Wina Crijns-Graus and Poul Alberg Østergaard, Exploring pathways to 100% renewable energy in European industry' (2023) 268 Energy <https://doi.org/10.1016/j.energy.2023.126687.> accessed 23 July 2025.

[866] European investment Bank Gorup, 'EIB Group Cohesion Data' (*EIB*, 14 July 2024) < https://www.eib.org/en/projects/topics/regional-development/impact > 7 August 2025.

[867] TFEU (n 22) arts 114, 194; European Investment Bank Group, 'EIB Group Cohesion Data' (*EIB*, 14 July 2025) < https://www.eib.org/en/projects/topics/regional-development/impact > accessed 7 August 2025.

[868] European Commission, *Supporting Innovative Solutions for Smart Grids and Metter* (Horizon 2020) < https://energy.ec.europa.eu/topics/markets-and-consumers/smart-grids-and-meters_en > accessed 7 August 2025.

[869] European Commission, 'European Green Deal: EU agrees stringer legislation to accelerate the rollout of renewable energy' (*Brussels*, 30 March 2023) <https://ec.europa.eu/commission/presscorner/api/files/document/print/en/ip_23_2061/IP_23_2061_EN.pdf > accessed 7 August 2025.

However, this does not imply that all EU members possess the same financial resources to meet their energy needs. It is suggested that this is primarily due to the EU legal regime, stemming from its institutions' competence and commitment to support all EU members, regardless of their financial circumstances. Jörgens and Solorio argue that the EU is a global leader in promoting renewables due to its institutional structure and subsequent legal regime for renewable energy.[870] In exploring trends across various regions and technologies in 2023, Europe's electricity generation (cumulative) ranks second at 1,625,355 GWh, next to Asia with 4,007,625 GWh.[871] For example, the share of the EU's renewable energy almost tripled between 2004 and 2023.[872] Wind and water provide the most renewable electricity, while solar is the fastest-growing energy source.[873] Nearly one-quarter of energy used for heating and cooling from renewable sources, and 10.8% of renewable energy used in transport activities in 2023.[874] The average share of energy from renewable sources in transport increased from 1.6% in 2004 to 10.8 per cent in 2023.[875]

Additionally, under the TEFU, members of the EU Commission are selected based on their general competence and dedication to the Union, ensuring their independence remains unquestionable.[876] Furthermore, Commission members are prohibited from seeking or accepting instructions from any government, institution, body, or entity, and they must avoid any actions that could conflict with their responsibilities or the execution of those responsibilities.[877] Costa and Peers further described the EU Commission as *supranational and integrationist*.[878] Furthermore, Article 26 of TEFU, which defines one of the fundamental principles

[870] Solorio and Jörgens (n 835) ch 3.
[871] IRENA, Regional Trends, (*IRENA*, July 2025) <https://www.irena.org/Data/View-data-by-topic/Capacity-and-Generation/Regional-Trends> accessed 23 July 2025.
[872] Eurostat, Renewable energy statistics (*Eurostat*, July 2025) <https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Renewable_energy_statistics#10.8.25_of_renewable_energy_used_in_transport_activities_in_2023> accessed 23 July 2025.
[873] ibid.
[874] ibid.
[875] ibid.
[876] TFEU (n 23) art 17.
[877] ibid.
[878] Costa and Peers (n 522).

of the EU—the *internal market—urges* the Commission to consider differences among its members' economies in pursuing the aims of the *internal market*.[879] The independence of the EU's institutions[880] and their commitment to the common good also account for the increase in EU membership and the EU's recorded successes, particularly the interest of other European countries in joining the EU, including Ukraine. For instance, following the Russia-Ukraine war, Roman argued that Ukraine's success in the war, and thus its chance for a just and fair peace deal, is inextricably linked to Ukraine's EU membership due to the EU's shared values on the battlefield.[881]

Arguably, the provision of the TFEU discussed above would bolster the confidence of relatively smaller countries within the bloc and deter larger nations from usurping or undermining their interests. This is one of the reasons this researcher argues that the ECOWAS could learn lessons from the EU to address common issues, particularly regarding the differences in electricity access rates for its citizens, as presented in Chapter Four of this research. As will become clear in the section discussing the EU renewable energy development directives, the above regulations were enacted primarily to manage the EU's governance of renewable energy development, the energy transition, and climate change. This is important because, under EU law, regulations are binding in their entirety and take effect immediately, while directives are binding only as to the result to be achieved.[882]

Thus, regulations do not require further implementation as they directly apply to all member states.[883] On the contrary, with directives, national authorities have the discretion regarding the form and method of implementation, which is why one can discuss the harmonisation of the EU's legal framework primarily through directives.[884] This means that harmonisation under the Renewable Energy Directive mainly involves aligning support schemes that operate in an

[879] TFEU (n 23) art 26.
[880] Costa and Peers (n 522).
[881] Roman Petrov, 'Bumpy Road of Ukraine Towards the EU Membership in time of War: "Accession Through War v Gradual Integration"' (*European Papers*, 27 December 2023) < https://www.europeanpapers.eu/europeanforum/bumpy-road-ukraine-towards-eu-membership-time-war > accessed 3 April 2025.
[882] TFEU (n 23) art 288.
[883] Costa and Peers (n 522) ch 5.
[884] ibid ch 15.

unsynchronised manner. Nonetheless, harmonisation within the EU framework remains problematic. This is because renewable energy sources vary, and different support schemes and technologies are utilised. For example, while some countries may have potential for ocean energy, others might have wind potential. This is why renewable energy regulations are essential, as they enable the Commission to oversee national measures, including the monitoring and evaluation of support schemes adopted, aimed at reaching the EU's overall target for renewable energy consumption. Additionally, the regulations ensure the implementation and coherence of national and regional measures to meet the EU target[885] outlined in the following directives: Directive 2001/77/EC, Directive 2009/28/EC, Directive (EU) 2018/2001, and Directive (EU) 2023/2413, which are discussed in the paragraphs below.

This researcher contends that the EU has ambitious, flexible, and evolving renewable energy and energy transition strategies, successfully enacting binding legislation to promote, use, and develop renewables. For instance, over two decades ago, the EU began raising concerns about energy diversification, the environment, and the role of renewables in its energy mix.[886] Consequently, the EU adopted its first renewable energy directive, Directive 2001/77/EC.[887] Although this directive is no longer in force, it is noteworthy for laying the foundation for the EU's first attempt to enact a law promoting renewable energy and harmonising the legal framework for common renewable energy laws and policies to achieve its overall renewable energy consumption target.[888] However, Rowland identified three issues raised by the directive that, according to Rowland, were not resolved.[889] The issues are the definition of renewable energy, national targets for renewable electricity, and the harmonisation of the legal

[885] Regulation (EU) 2018/1999 (n 27) arts 23, 54.
[886] Communication for the European Commission, *Energy For the Future: Renewable Sources of Energy* White Paper for the Community Strategy and Action Plan COM(97) 599 Final https://europa.eu/documents/comm/white_papers/pdf/com97_599_en.pdf assessed 16 October 2024.
[887] Directive 2001/77/EC (n 28).
[888] Solorio and Bocquillion (n 143).
[889] Ian H Rowland, 'The European directive on renewable electricity: conflicts and compromises' (2005) 33 (8) EP 965, 974 < https://www.sciencedirect.com/science/article/pii/S0301421503003215#aep-section-id14 > accessed 3 April 2025.

framework.[890] The definition issue concerned broadening the definition of what constitutes renewable energy resources, which was addressed by the 2009 directive.[891] The 2009 directive also resolved the issue of setting national targets, whereas the 2001 directive had set indicative targets;[892] the 2009 directive, in contrast, set binding targets.[893] However, the issue of harmonisation has yet to be resolved, and not even the 2023 directive addressed it.

Therefore, this research focuses on the issue of harmonisation and on how subsequent directives aimed to address it, which remained unresolved despite their enactment.[894] Nevertheless, Rowland argues that enacting the 2001 directive meant that difficult choices had to be made, adding that the measures taken concerning the 'definition of 'renewable', the national targets for renewable electricity, and the questions associated with harmonisation such as whether one Union-wide 'support scheme' for renewable electricity should be in place, and, if so, what it should be?', are unsustainable in the long term.[895] However, the EU has since enacted regulations to promote renewable energy development and energy transition, as well as three additional directives on renewable energy development.

This research argues that, despite concerns raised, these directives indicate that the EU responds to changes and global trends in renewable energy development and energy transition, thereby addressing these issues through legislation. In contrast, the ECOWAS lacks such dynamism, which is discussed in detail in Chapter Four. Consequently, the EU enacted additional directives promoting energy from renewable sources, namely Directive 2009/28/EC, Directive (EU) 2018/2001, and Directive (EU) 2023/2413. The 2023 directive has repealed the 2009 and 2018 directives; therefore, this section focuses on the 2023 directive. However, reference is made to the 2009 and 2018 directives, which are necessary to demonstrate how the succeeding directives have addressed the harmonisation issue not addressed by the earlier directives.

[890] ibid.
[891] Directive 2009/28/EC (n 28) art 2.
[892] Directive 2001/77/EC (n 28) (n 26) art 3.
[893] Directive 2009/28/EC (n 28) art 3.
[894] Directive 2001/77/EC (n 28).
[895] Rowland (n 933).

To begin with, it is worth noting the overall EU renewable energy consumption target set by the previous and current directives. The EU's target with the 2001 directive was at least 12 per cent by 2010,[896] the 2009 directive, at least 20 per cent by 2020,[897] the 2018 directive, at least 32 per cent by 2030,[898] and the 2023 directive, 42.5 per cent by 2030 to reach 45 per cent.[899] In this respect, while it is too early to determine the progress, this target is ambitious and requires accelerated deployment across all sectors.[900] The EU is also focused on cutting emissions and reducing its reliance on fossil fuels, especially following the Russia-Ukraine war, given its dependence on Russian oil and gas supplies.[901] These directives demonstrate the EU's commitment to a collective effort in developing its renewable energy sources. For instance, Article 1 of the 2001 Directive clearly states as follows:

> The potential for the exploitation of renewable energy sources is underused in the Community at present. The Community recognises the need to promote renewable energy sources as a priority measure, given that their exploitation contributes to environmental protection and sustainable development. In addition, this can also create local employment, have a positive impact on social cohesion, and contribute to the security of supply.[902]

Although the 2001 directive has been repealed, the excerpt above is noteworthy because it laid the groundwork for subsequent directives. In the 2001 directive, the EU recognised its renewable energy potential and the underutilisation of its renewable energy sources. This parallels IRENA's findings in Chapter Four regarding the ECOWAS region's potential for renewable energy and the necessity to harness it to expand electricity access in the sub-region. Furthermore, a review of the EU's renewable energy and transition legal framework reveals a sustained and evolving effort by the EU's institutions to collaborate with member states in

[896] Directive 2001/77/EC (n 28) art 7.
[897] Directive 2009/28/EC (n 28) art 8.
[898] Directive (EU) 2018/2001 (n 28) art 8.
[899] Directive (EU) 2023/2413 (n 28) art 5.
[900] Linklaters, 'European Renewable Energy Directive (RED III): updated ambitious targets to boost the renewable energy market' (*Linklaters,* 2025) <https://sustainablefutures.linklaters.com/post/102ipy5/european-renewable-energy-directive-red-iii-updated-ambitious-targets-to-boost> accessed 24 July 2025.
[901] Directive (EU) 2023/2413 (n 28) arts 1, 5.
[902] Directive 2001/77/EC (n 28) para 1.

promoting the use and development of renewable energy resources, thereby supporting the energy transition and mitigating the catastrophic effects of climate change. However, since the 2001 directive, the EU has continued to work on establishing harmonised renewable energy policies, specifically support schemes, as discussed in the following two paragraphs below.

Notably, the 2001 Directive followed years of negotiations and debates regarding the potential harmonisation of national support schemes.[903] Nevertheless, due to national choices, particularly from Germany[904] and Spain[905], the two largest EU members with established domestic renewable energy support systems strongly oppose a harmonised support scheme.[906] Consequently, the EU's efforts to harmonise its renewable energy legal framework since the 2001 Directive have been unsuccessful. For instance, Talus argued that energy issues are sensitive and too political to be regulated at the regional level.[907] Nonetheless, this research argues that energy issues, particularly the development of renewable energy and facilitating energy transition, require cooperation and collaboration at both national and regional levels, as these issues may exceed the power, economy, and expertise of national regulators. Therefore, it may not be considered sensitive or too political to be regulated at the regional level. Accordingly, following the Lisbon Treaty and global environmental concerns such as climate change, as well as issues of energy supply security, and reliance on imported oil and gas, the EU has engaged in creating a comprehensive legal framework for renewable energy and energy transition to promote the use of renewables, reduce greenhouse gas emissions, and achieve climate neutrality by 2050.[908]

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[903] Vick L Birchfield and John S Duffield, *Towards a Common European Union Energy Policy: Problems Progress, and Prospects* (1st edn, Palgrave Macmillan 2011) 115, 116.
[904] Thomas Vogelpohl, Dörte Ohlhorst, Mischa Becberger and Bernd Hirschl, 'German Renewable Energy Policy: Independent pioneering versus creeping Europeanisation' in Isarel Solorio and Helge Jörgens (eds), *A Guide to EU Renewable Energy Policy: Comparing Europeanisation and domestic policy change in the EU Member States* (UK: Edward Elgar 2017) ch 3.
[905] Isarel Solorio and Rosa Fernandez, 'Spain and renewable energy promotion: Europeanisation upside down' in Isarel Solorio and Helge Jörgens (eds), *A Guide to EU Renewable Energy Policy* (UK: Edward Elgar 2017) ch 8.
[906] Solorio and Bocquillion (n 143).
[907] Tim Talus, *Introduction to EU Energy Law* (Oxford University Press 2016) 2, 5.
[908] Regulation (EU) 2021/1119 (n 27) para 2.

This section focuses on the issue of harmonisation within the EU renewable energy legal framework as it pertains to the EU's pursuit of a comprehensive support scheme across its member states. As discussed, since the 2001 Renewable Electricity Directive, the EU has not successfully established a unified framework to support the deployment of renewable energy among its member states.[909] However, Article 4 of the 2001 directive proposed a framework for member states to adopt in formulating their support schemes, as reaffirmed by both the 2009 and 2018 directives. Among other things, the Directives require a sufficient transitional period of at least seven years for national support schemes to maintain investors' confidence. In essence, the EU's legal framework and institutional competence encourage member states to implement support schemes that achieve set targets. For example, the issue of a community support scheme remained unresolved by the 2001 directive because member states opposed it.[910] However, the 2009 and 2018 directives recognise that member states can be guided and provided with a template for support schemes, which can be adopted to enable the commission to monitor the action plans of member states to fulfil their renewable energy targets set by the directive. Nevertheless, the 2009 directive acknowledges the need for a joint support scheme in the future.[911]

Support scheme systems are designed to promote renewable energy as an alternative to fossil fuels. Consequently, support schemes foster backing for renewable energy technologies, resulting in policies and initiatives that increase the market share of electricity generated from renewable sources. Additionally, the issues of energy security, job creation, and improving technology competitiveness converge in the creation of support schemes to help achieve policy objectives. For example, the 2001 Directive emphasised that its aim depends on the proper functioning of support schemes, while the 2018 Directive highlighted that support schemes are essential for enhancing the market integration of renewable energy.[912] Although the EU has not yet established a unified renewable energy support scheme, the renewable energy directives outlined above specify guidelines for various support mechanisms that member

[909] Solorio and Bocquillion (n 143).
[910] Birchfield and Duffield (n 947).
[911] Directive 2009/28/EC (n 28) art 11.
[912] Directive (EU) 2018/2001 (n 28) para 22.

states could adopt based on their national contexts to comply with the EU's renewable energy policies, as discussed in the subsection below.

5.2.1 Policies

Globally, the EU has implemented one of the most sophisticated legal frameworks for renewable energy.[913] The progress achieved demonstrates the EU's commitment to stronger regional integration,[914] as well as its keenness on energy security and climate action.[915] The renewable energy legal framework is a legal set of and policy instrument that strengthens the U's principles of shared sovereignty, market integration, and cooperation. Having reviewed the EU's renewable energy and energy transition law above, this subsection critically evaluates the EU's renewable energy policies, their efficacy, and the broader implications for regional integration.

In the context of renewable energy, a policy refers to a set of principles, guidelines, rules, or strategies developed by governments or institutions to promote the development, deployment, and use of renewable energy sources such as solar, wind, hydro, biomass, wave, or tidal power. Promotion strategies for renewable energy resources options are the key driver of an efficient and effective RES-E deployment.[916] Historically, the European Commission has placed a high priority on generating electricity from Renewable Energy Sources (RES) in its energy policy strategies.[917] For instance, the European Commission's White Paper on Renewable Sources of Energy and the Proposal for the Promotion of Electricity

[913] Ting Chen and Frederik Vandendriessche, 'Evolution of the EU legal framework for promoting RES-E: A market compatible paradigm shift?' (2023) 83 UP <https://doi.org/10.1016/j.jup.2023.101608.> accessed 10 April 2025.

[914] Fraser Cameron, 'The European Union as a Model for Regional Integration' (*Council on Foreign Relations*, September 2010) <https://www.cfr.org/report/european-union-model-regional-integration> accessed 10 April 2025.

[915] Fatih Birol and Laurence Tubiana, 'Delivering EU energy security through climate action' (*European Climate Foundation,* 26 July 2022) <https://europeanclimate.org/wp-content/uploads/2022/07/ecf-external-white-paper.pdf> accessed 10 April 2025.

[916] Reinhard Haas, Christian Panzer, Gustav Resch, Mario Ragwitz, Gemma Reece and Anne Held, 'A historical review of promotion strategies for electricity from renewable energy sources in EU countries' (2011) 15 (2) RSER 1003, 1034, <https://doi.org/10.1016/j.rser.2010.11.015.> accessed 18 April 2025.

[917] T Faber, J Green, M Gual, R Haas, C Huber, G Resch and J Twidell, 'Promotion strategies for electricity from renewable energy sources in EU countries' (2001) VUT < https://www.researchgate.net/publication/237443665_Promotion_strategies_for_electricity_from_renewable_energy_sources_in_EU_countries > accessed 18 May 2025.

from Renewable Energy Sources established ambitious objectives to increase the proportion of renewable energy sources in the energy mix of EU member states.[918]

To begin with, it is essential to place the concept of support schemes in context. The EU's primary renewable energy, energy transition, and climate change policy relies on support schemes. The term 'support scheme' refers to any mechanism, program, or system implemented by a Member State or a coalition of Member States to enhance energy use from renewable sources.[919] This is achieved by lowering energy costs, boosting the selling price, or increasing the amount purchased through renewable energy obligations or other means.[920] Examples include, but are not limited to, investment grants, tax exemptions or reductions, tax refunds, support schemes for renewable energy obligations (such as those utilising green certificates), and direct pricing support mechanisms including feed-in tariffs and sliding or fixed premium payments.[921] Therefore, support schemes exist in two forms: fiscal and investment.

The fiscal form includes operating support measures such as feed-in tariffs and renewable energy obligations, while the investment form encompasses capital grants and tax exemptions. For example, the European Investment Bank (EIB) provides funding for renewable energy projects across the EU.[922] Additionally, the EU has established, among other measures, the European Regional Development Fund (ERDF), which provides funding for public and private bodies across all EU member states to reduce economic, social, and territorial disparities.[923] The ERDF supports investment in dedicated national or regional projects focused on greener,

[918] Communication for the European Commission, 'Energy for the Future: Renewable Sources of Energy' White Paper for the Community Strategy and Action Plan COM (97) 599 Final <https://europa.eu/documents/comm/white_papers/pdf/com97_599_en.pdf> assessed 18 April 2025.
[919] Directive (EU) 2018/2001 (n 28) art 2(5).
[920] ibid.
[921] ibid.
[922] European Investment Bank, 'EIB and EDP sign €700 Million in loans to rollout renewable energy projects and to finance power gride expansions in Southern Europe' (*EIB*, 19 December 2024) < https://www.eib.org/en/press/all/2024-516-eib-and-edp-sign-eur700-million-in-loans-to-rollout-renewable-energy-projects-and-to-finance-power-grid-expansion-in-southern-europe >accessed 20 April 2025.
[923] European Commission, 'European Regional Development Fund' < https://ec.europa.eu/regional_policy/funding/erdf_en > accessed 20 April 2025.

low-carbon, and renewable energy initiatives.[924] However, as demonstrated in this chapter, the EU has continued to strive towards achieving a harmonised support scheme since its 2001 directive and the 2023 Renewable Energy Directive.

Nonetheless, the European Union has implemented various support schemes to facilitate the deployment of renewable energy among its Member States. The implementation of these support schemes has been driven primarily by efforts to increase the share of renewable energy in electricity generation, a key target within the European Union and globally.[925] The EU's 2023 renewable energy directive mentioned above outlines the Union's current policies and sets targets, with the directive stating the key policies as follows:[926]

> In the context of the European Green Deal, set out in the communication from the Commission of 11 December 2019 (the 'European Green Deal'), Regulation (EU) 2021/1119 of the European Parliament and of the Council established the objective of climate neutrality in the Union by 2050 and an intermediate target of a reduction of net greenhouse gas emissions by at least 55 per cent compared to 1990 levels by 2030.[927]

The 2023 directive, in addition to setting an ambitious renewable energy target for the EU, emphasised the REPowerEU Plan of 2022 regarding energy diversification and the transition from fossil fuels to renewables to enhance the EU's energy security in the wake of the Russia–Ukraine War.[928] Moreover, in line with Article 4 of the 2018 Renewable Energy Directive, EU member states are required to provide support for electricity generated from renewable sources in an open, transparent, competitive, non-discriminatory, and cost-effective manner.

As discussed above, in the absence of a harmonised renewable energy support scheme, the directives defined and laid down guidelines for various support schemes that member states could adopt to foster the deployment, development, and use of renewable energy sources, while also meeting the EU's overall

[924] ibid.
[925] ibid.
[926] Directive (EU) 2023/2413 (n 26) Paras 1, 5.
[927] ibid.
[928] ibid para 5.

renewables targets. However, Fleck and Anatolitis' research concluded that technology-specific financial support measures for renewable energy sources were much more effective and efficient than other measures.[929] Thus, it is not just about the common debate over specific schemes, such as feed-in tariffs versus quota systems based on tradable green certificates, but rather about the criteria for designing the renewable energy support schemes that are implemented. The EU's support Schemes function within the comprehensive legal framework established by the Renewable Energy Directives, specifically Directive 2009/28/EC and its successor, Directive (EU) 2018/2001 (RED II). Although these support mechanisms have been pivotal in increasing the EU's renewable energy capacity, they have also created significant legal, economic, and political challenges, which are discussed later in this chapter.

5.2.2.1 EU Renewable Energy Support Schemes

In response to the EU's objectives to facilitate the rapid expansion of renewable energy, the EU and member states utilised various support mechanisms outlined in the 2001, 2009, and 2018 Directives. The support mechanisms, as further categorised by Busch and others, include:[930]

- Feed-in Tariffs (FiTs): Guaranteed pricing for renewable electricity producers
- Feed-in Premiums (FiPs): FiPs enable producers to receive a premium above the market price for their electricity production, with electricity from renewable energy sources typically sold on the electricity spot market.
- Green Certificates
- Investment Grants
- Renewable Portfolio Standards (RPS): Obligations for utilities to source a percentage of electricity from renewables
- Subsidies and Tax Incentives: Financial support for the installation of RE technologies

[929] Ann-Katrin Fleck and Vasilios Anatolitis, 'Achieving the objectives of renewable energy policy – Insights from renewable energy auction design in Europe' (2023) 173 EP <https://doi.org/10.1016/j.enpol.2022.113357.> accessed 15 April 2025.

[930] Sebastian Busch, Ruben Kasdorp, Derck Koolen, Arnaud Mercier and Magdalena Spooner, 'The Development of Renewable Energy in the Electricity Market' (2023) 187 EEDP 22, 23 <https://economy-finance.ec.europa.eu/system/files/2023-06/dp187_en_energy%20markets.pdf> accessed 16 April 2025.

- Auctions/Tenders: Competitive bidding to lower RE prices
- Green Public Procurement: Government preference for renewable-powered infrastructure
- Licensing and Permitting Regulations: Simplifying procedures for RE projects
- Net Metering: Allowing consumers to feed excess solar or wind power back into the grid
- Grid Access and Interconnection Rules: Ensuring fair access for decentralised generators

However, this research examined two key support mechanisms implemented in the EU-27 Member States, namely FiTs systems and tradable green certificate (TGC) systems.

- **Feed-in Tariffs (FiTs)**

The fundamental principle of FiT systems is that any national generator of renewable electricity can sell its electricity at a fixed tariff for a specific time under certain conditions, which depend on factors such as location, technology, and other variables.[931] According to Toke and others, the feed-in tariff is a financial support program that involves paying fixed, guaranteed tariffs for renewable energy over a long term that lasts at least fifteen years.[932] Furthermore, the price remains constant for the specified period; however, a lower price is set for new connections in subsequent years.[933] In contrast, the electricity market price is complemented by a fixed premium that the renewable energy producer receives.[934] Additionally, priority grid access is often implemented alongside the significant components of FiT systems. Generally, electricity consumers bear the expenses associated with FiT payments.

[931] Doerte Fouquet and Thomas B Johansson, 'European renewable energy policy at crossroads—Focus on electricity support mechanisms' (2008) 36 (11) EP 4079, 4092 <https://doi.org/10.1016/j.enpol.2008.06.023.> accessed 15 April 2025.
[932] David Toke, Charles Warren and Peter Strachan, 'A Scottish Marine Feed-in-Tariff?' (2022) Submission to the Scottish Government Consultation on the Renewable Obligation (Scotland) <https://wind-works.org/wp-content/uploads/2022/12/David_Toke_A_Scottish_marine_FITsubmission.pdf > accessed 19 April 2025.
[933] Busch and others (n 930).
[934] Fouquet and Johansson (n 931).

- **Tradable Green Certificates**

The Tradable Green Certificate (TGC) is a market-based regulatory system in which 'green' producers are issued a certificate per production unit that can be sold at the current certificate price.[935] As a result, fossil fuel electricity producers and importers are required to acquire a specific quantity of certificates from green producers for each unit of electricity they introduce into the grid.[936] Consequently, this establishes a market for green certificates. At the same time, the 'percentage requirement' is a critical policy instrument that mandates a certain percentage of total energy consumption to be sourced from renewable sources.[937] In other words, TGC schemes establish a market for electricity generated by renewable and other green sources. Green technologies thus produce two distinct commodities: electricity, sold in the electricity market, and green certificates, traded in the green certificate market.[938]

This scheme, known as Tradable Green Certificates, operates on the principle that a renewable energy producer can obtain supplementary financial gains by selling certificates in the market. The government establishes the target for renewable energy under the TGC system, while the market dictates the certificate price.[939] Many countries have implemented a system of TGCs to achieve their renewable energy objectives. TGC mechanisms have been implemented in the United Kingdom, Belgium, Italy, Poland, Romania, Sweden and the United States.[940] These certificates are referred to as Renewable Energy Certificates, Renewable Portfolio Standards in the United States, or Renewable Obligation Certificates in the United Kingdom.[941] In these systems, a particular member of the electricity

[935] Ourania Karakosta and Dimitra Petropoulou, 'The EU electricity market: Renewables targets, Tradable Green Certificates and electricity trade' (2022) 111 EE <https://doi.org/10.1016/j.eneco.2022.106034.> accessed 15 April 2025.
[936] ibid.
[937] ibid.
[938] David Harrison, Steve Sorrell, Daniel Radov, Per Klevnas and Andrew Foss, 'Interactions of the EU ETS with Green And White Certificate Schemes' (*European Commission Directorate-General Environment*, 17 November 2005) <https://climate.ec.europa.eu/document/download/0f832093-7000-42e7-a51f-0c8e586e18f1_en> accessed 15 April 2025.
[939] Fouquet and Johansson (n 930).
[940] Fleck and Anatolitis (n 929).
[941] Karakosta and Petropoulou (n 935).

supply chain, such as a consumer, generator, or supplier, must submit a predetermined minimum number of certificates annually, as determined by a public authority. The certificates are issued based on the Megawatt-hours (MWh) of renewable energy electricity produced. An obligated party may either generate or purchase certificates on a certificate market. The cost of certificates may be transferred to the consumer by the obligated party.

Table 6: Overview of National Support Schemes in Place by RES Technologies from 2020 to 2021.[942]

Country	Type of support	Process determining the level of support or the quota	PV	Onshore wind	Offshore wind	Bio-energy	Hydro-power	Duration of support (years)
Austria	Feed-in Premium	Administrative & Tendering procedures	Yes	Yes		yes	Yes	20
	Investment grant	Administrative procedures						N/A
Belgium	Feed-in Tariff	Tendering procedures	Yes	Yes	Yes	Yes	Yes	10 to 20
Bulgaria	Feed-in Tariff	Tendering procedures	Yes	Yes	Yes	Yes	Yes	14
Croatia	Feed-in Tariff	Tendering procedure	Yes	Yes		Yes	Yes	
	Feed-in Premium	Tendering procedure	Yes	Yes		Yes	Yes	
Cyprus	Investment grant	Administrative procedures	Yes					N/A
Czech Republic	Feed-in Tariff	Administrative procedures		Yes		Yes	Yes	15 to 30
	Feed-in Premium	Administrative procedures		Yes		Yes	Yes	
Estonia	Feed-in Premium	Administrative procedures	Yes	Yes		Yes	Yes	12

[942] Council of European Energy Regulators, 'Status Review of Renewable Support Schemes in Europe for 2020 and 2021' (*CEER*, 28 September 2023) 12, 14 <https://www.ceer.eu/wp-content/uploads/2024/04/RES_Status_Review_in_Europe_for_2020-2021.pdf> accessed 20 April 2025.

France	Feed-in Tariff	Administrative procedures	Yes					10 to 20
	Feed-in Premium	Administrative procedures	Yes	Yes	Yes	Yes	Yes	
	Feed-in Tariff	Administrative procedures	Yes			Yes	Yes	
	Feed-in Premium	Administrative procedures		Yes		Yes	Yes	
Germany	Feed-in Premium	Administrative & Tendering procedures	Yes	Yes	Yes	Yes		20
	Feed-in Tariff	Administrative procedures	Yes	Yes		Yes	Yes	
	Feed-in Premium	Administrative procedures	Yes	Yes		Yes	Yes	
Greece	Feed-in Tariff	Tendering procedures	Yes	Yes				20 to 25
	Feed-in Premium	Tendering procedures	Yes	Yes				
	Feed-in Tariff	Administrative procedures	Yes	Yes		Yes	Yes	
	Feed-in Premium	Administrative procedures	Yes	Yes		Yes	Yes	
Country	Type of support	Process determining the level of support or the quota	PV	Onshore wind	Offshore wind	Bio-energy	Hydro-power	Duration of support (years)
Hungary	Feed-in Premium	Tendering procedures	Yes	Yes		Yes	Yes	15
	Feed-in Tariff	Administrative procedures	Yes	Yes		Yes	Yes	5 to 25
	Feed-in Premium	Administrative procedures	Yes			Yes	Yes	5 and 4 to 25
Italy	Feed-in Premium	Tendering procedures	Yes	Yes	Yes	Yes	Yes	15 to 30
	Feed-in Tariff	Administrative procedures	Yes	Yes	Yes	Yes	Yes	
Ireland	Feed-in Tariff	Administrative procedures	Yes	Yes		Yes	Yes	15

Latvia	Feed-in Tariff	Administrative procedures	Yes	Yes	Yes	Yes	Yes	10 to 20
Lithuania	Feed-in Tariff	Tendering procedures	Yes	Yes		Yes	Yes	12 to 15
Luxembourg	Feed-in Premium	Tendering procedures	Yes					
	Feed-in Tariff	Administrative procedures	Yes	Yes		Yes	Yes	15
	Feed-in Premium	Administrative procedures	Yes	Yes		Yes	Yes	
	Investment grant	Administrative procedures	Yes					NAP
Malta	Feed-in Tariff	Tendering procedure	Yes	Yes	Yes	Yes	Yes	Max 20
	Feed-in Tariff	Administrative procedures	Yes					
	Investment grant	Administrative procedures	Yes					N/A
Netherlands	Feed-in Premium	Tendering procedures	Yes	Yes	Yes	Yes	Yes	12 to 15
North Macedonia	Feed-in Premium	Tendering procedures	Yes					
	Feed-in Tariff	Administrative procedures		Yes		Yes	Yes	15 to 20
Poland	Feed-in Tariff	Tendering procedures	Yes	Yes	Yes	Yes	Yes	15 to 25
	Feed-in Premium	Tendering procedures	Yes	Yes	Yes	Yes	Yes	15 to 25
	Feed-in Tariff	Administrative procedures				Yes	Yes	15
	Feed-in Premium	Administrative procedures				Yes	Yes	15
Portugal	Feed-in Tariff	Administrative procedures	Yes	Yes	Yes	Yes	Yes	15 to 25
Romania	Green Certificates	Administrative procedures	Yes	Yes		Yes	Yes	15
Slovakia	Feed-in Tariff	Administrative procedures				Yes	Yes	15
	Investment grant	Administrative procedures	Yes					

Country	Type of support	Process determining the level of support or the quota	PV	Onshore wind	Offshore wind	Bio-energy	Hydro-power	Duration of support (years)
Slovenia	Feed-in Tariff	Tendering procedures	Yes	Yes	Yes	Yes	Yes	15
Spain	Feed-in Tariff	Tendering procedure	Yes	Yes		Yes	Yes	20 to 30
Sweden	Green Certificates	Administrative procedures	Yes	Yes	Yes	Yes	Yes	
	Investment grant	Administrative procedures	Yes					
UK: *before Brexit*	Feed-in Tariff	Administrative procedures	Yes	Yes		Yes	Yes	
	Feed-in Premium (contract for difference)	Tendering procedures	Yes	Yes	Yes	Yes	Yes	10 to 25

5.2.2.2 EU Target Setting and Its Influence on Renewable Energy Production

Target setting is a key strategy for the EU to achieve its ambitious renewable energy deployment and development targets, reduce emissions, and facilitate the energy transition. For instance, Strunz and others argue that the EU's target-setting is closest to the ideal for achieving its renewable energy commitments at the EU level because it sets legally binding targets.[943] Accordingly, the EU's renewable energy targets have played a crucial role in promoting the deployment of renewable energy in the domestic sector and fostering regional energy cooperation.[944] In this respect, the EU established mandatory targets to reduce

[943] Sebastain Strunz, Paul Lehmann and Erik Gawel, 'Analyzing the ambitions of renewable energy policy in the EY and its Member States' (2021) 156 EP 112 < https://www.sciencedirect.com/science/article/pii/S0301421521003177#abs0010 > accessed 21 April 2025.

[944] Brigitte Knopf, Paul Nahmmacher and Eva Schmid, 'The European renewable energy target for 2030 – An impact assessment of the electricity sector' (2015) 85 EP 50, 56 <https://doi.org/10.1016/j.enpol.2015.05.010.> accessed 20 April 2025.

greenhouse gas (GHG) emissions and increase the proportion of renewable energy (RE) in final energy consumption by 2020. For example, the EU climate and energy package, (20-20-20 package) comprises a 20 per cent reduction in EU greenhouse-gas (GHG) emissions from those of 1990, raising the share of RE in the EU's final energy consumption to 20 per cent (including a renewable share of 10 per cent in the transport sector), and a 20 per cent improvement in the EU's energy efficiency.[945] As of 2025, the EU renewable target has been adapted to provide mandatory national targets; however, these targets vary from one Member State to another, primarily based on energy mix, renewable potential, and gross domestic product.

The EU has set an ambitious target to establish a robust legal framework, thereby enhancing investor confidence among Member States.[946] The target has also facilitated large-scale investments in wind, solar, and biomass energy and advocated for the gradual transition from fossil fuels to renewable electricity generation. For example, Denmark and Spain have expedited the implementation of wind power.[947] In contrast, Germany has led advancements in solar energy and the transition to green hydrogen, primarily in response to these EU-wide objectives.

- **Implications of EU Targets On Regional Integration**

Targets within the EU have regional and global implications. For example, the EU led an initiative at COP28 aimed at tripling global renewable energy capacity by 2030.[948] The EU's renewable energy targets are fundamentally connected to regional integration, primarily through the Energy Union strategy.[949] The targets

[945] ibid.
[946] New Climate Institute, 'Shaping Strong EU Partnerships, Guiding Principles and Key Considerations' <https://newclimate.org/sites/default/files/2024-12/Shaping%20Strong%20EU%20Partnerships_dec2024.pdf> accessed 19 April 2025.
[947] WindFlix, 'Wind energy in Europe: 2024 Statistics and Outlook for 2025-2030' (*WindFlix*, 27 February 2025) < https://windeurope.org/intelligence-platform/product/wind-energy-in-europe-2024-statistics-and-the-outlook-for-2025-2030/# > accessed 21 April 2025.
[948] EMBER, 'EU member states target 66% renewable electricity by 2030, slightly short of the REPowerEU 69% goal' (*EMBER*, 23 December 2023) <https://ember-energy.org/latest-updates/eu-member-states-target-66-renewable-electricity-by-2030-slightly-short-of-the-repowereu-69-goal/> accessed 18 April 2025.
[949] European Commission, 'Energy: Renewable energy targets'<https://energy.ec.europa.eu/topics/renewable-energy/renewable-energy-directive-targets-and-rules/renewable-energy-targets_en> accessed 19 April 2025.

necessitate international collaboration, particularly in electricity grid interconnection and market integration, as well as supportive initiatives such as collaborative projects and statistical transfers under RED II and III.[950] Additionally, standardised regulations are required for support frameworks, electricity trading, and energy infrastructure.[951] Nevertheless, regional integration is bolstered by EU-level funding mechanisms, such as the renewable energy projects funding Regulation,[952] which provides funding for all renewable energy deployment projects in the EU, as well as the Connecting Europe Facility, along with agencies like the Agency for the Cooperation of Energy Regulators (ACER) and the European Network of Transmission system Operators for Electricity (ENTSO-E).[953] These instruments facilitate the synchronised planning and functioning of transnational energy systems.

- **Prospects and Challenges**

The EU successfully achieved its set renewable energy target. According to Eurostat:[954]

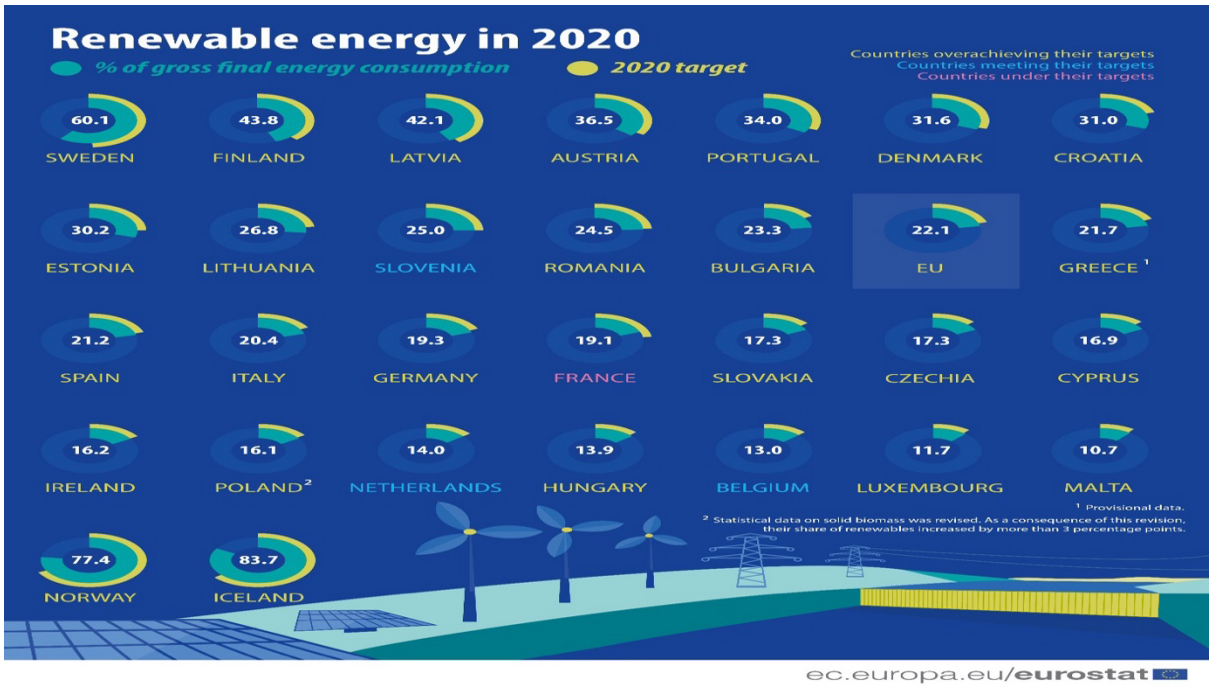
> At the EU level, the share of gross final energy consumption from renewable sources reached 22 per cent in 2020. This is two percentage points (pp) above the target level for 2020, as included in Directive 2009/28/EC on the promotion of the use of energy from renewable sources. This is a significant achievement and a crucial milestone on the EU's path towards achieving climate neutrality by 2050.[955]

The EU Directive also establishes national targets for 2020, determined by considering each country's starting point and overall potential for renewable energy sources. In this regard, in 2020, 26 Member States either met or exceeded

[950] ibid.
[951] ibid.
[952] Regulation EU 2020/1294 (n 27).
[953] European Commission: Communication from the Commission to the European Parliament, The Council, the European Economic and Social Committee and the Committee of Regions, *Grids, the missing link - An EU Action Plan for Grids* (COM (2023) 757 Final) < https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52023DC0757 > accessed 14 August 2025.
[954] Eurostat, 'EU overachieves 2020 renewable energy target' <https://ec.europa.eu/eurostat/en/web/products-eurostat-news/-/ddn-20220119-1> accessed 20 April 2025.
[955] ibid.

their national targets.[956] Figure 1 displays the set targets by EU member states. The EU's renewable energy targets have significantly influenced the energy transition, but they encounter substantial implementation challenges. These challenges include disjointed support programs, grid limitations, slow permitting processes, and inconsistent political commitment, all of which impede advancement.[957] Resolving these challenges necessitates enhanced legal harmonisation, improved financing mechanisms, and increased regional collaboration to guarantee that the Union achieves its climate neutrality objectives for 2030 and 2050.[958]

Figure 1: EU overachieves 2020 renewable energy target.[959]



5.2.2.3 Key Objectives of EU Renewable Energy Policy

From the above review of the EU's renewable energy policy, it is argued that EU's renewable energy key policy objectives include the promotion of clean energy to reduce dependence on fossil fuels, meeting climate change commitments (Paris Agreements' NDCs, access to energy and equity, support to investment in

[956] ibid.
[957] Jackson and others (n 69).
[958] ibid.
[959] Eurostat, 'EU overachieves 2020 renewable energy target' <https://ec.europa.eu/eurostat/en/web/products-eurostat-news/-/ddn-20220119-1> accessed 20 April 2025.

renewable energy technologies, promotion of innovation and local manufacturing, and improvement of grid integration and system resilience. These policy objectives can be summarised as 'effectiveness, support cost efficiency, green growth, security of supply, and actor diversity.'[960] Fleck and Anatolitis, in their article titled 'Achieving the objectives of renewable energy policy – Insights from renewable energy auction design in Europe' argued that these objectives could be achieved through a coherent policy objective in congruence with design elements, a key component of support schemes, thus recommending that an auction to be considered for a EU-wide support scheme.[961] However, following the 2023 Renewable Energy Directive, the European Commission is still working on an EU-wide support scheme, evaluating various support schemes adopted by member states based on the domestic success of these schemes in meeting national and regional targets.

5.2.2.4 A Critical Analysis of the EU Renewable Energy Policy

Based on the volume of renewable electricity that received support, support schemes play an essential role in developing and deploying these technologies in the EU.[962] However, a significant obstacle in the European Union's transition to renewable energy is the absence of a fully harmonised support mechanism among Member States. Although the EU has made considerable progress in formulating a unified energy policy, the support frameworks for renewable energy sources are primarily developed and implemented at the national level. This regulatory fragmentation presents substantial obstacles to the efficient and fair advancement of renewable energy sources throughout the Union.

As earlier discussed, the diverse support mechanisms—encompassing feed-in tariffs, feed-in premiums, green certificate systems, and auction-based frameworks—create an inequitable competitive environment for market participants. Investors must contend with unique legal, regulatory, and financial conditions in each Member State, thereby elevating transaction costs and legal uncertainty.[963] The lack of convergence across national schemes hinders the

[960] Fleck and Anatolitis (n 929).
[961] ibid.
[962] Busch and others (n 930).
[963] Leonardo Massai *European Climate and Clean Energy Law and Policy* (Routledge 2011) 147.

establishment of an integrated, efficient internal energy market, as renewable energy developers face difficulties with cross-border operations.[964] This fragmented strategy also limits cross-border collaboration, which is crucial for maximising the potential of Europe's varied renewable resources. Member States often lack the motivation to permit foreign producers access to their schemes in the absence of harmonised support frameworks, resulting in the underutilisation of high-yield areas, such as offshore wind zones or regions with high solar irradiance.[965] The inefficiencies of this fragmented model hinder the EU's overarching objective of optimising resource allocation in line with comparative advantage.[966]

Additionally, the absence of harmonisation obstructs the Union's capacity to meet its entire collective renewable energy objectives, as outlined in the European Green Deal and the Renewable Energy Directive (RED III).[967] The existing framework allows for variations in ambition and execution, with certain Member States exceeding their obligations while others underperform. Although instruments like the EU Guidelines on State Aid for Climate, Environmental Protection and Energy (CEEAG) 2022[968] and RED II and RED III[969] encourage a certain level of coordination, particularly through competition, one cannot underestimate the effect of harmonisation of the EU's renewable energy support systems in the advancement of the EU's renewable energy legal framework. Therefore, while support schemes have aided renewable energy development, the absence of harmonised support mechanisms structurally challenges the EU's renewable energy objectives. Consequently, the lack of a unified EU support framework for renewable energy significantly undermines the Union's renewable energy objectives. A more cohesive and reliable system could bolster investor confidence,

[964] Adrien de Hauteclocque, 'Legal Uncertainty and Competition Policy in European Delegated Electricity Markets: the case of long-term Exclusive Supply Contracts' (2009) 32 (1) WC 91,95 < https://www.researchgate.net/publication/265268971_Legal_Uncertainty_and_Competition_Policy_in_European_Deregulated_Electricity_Markets_the_Case_of_Long-term_Exclusive_Supply_Contracts > accessed 13 August 2025.

[965] European Commission *A policy Framework for Climate and Energy in the Period from 2020 to 2030* COM(2014) 15 Final.

[966] Jean-Michel Glachant and Sophia Ruester, 'The EU internal electricity market: Done forever?' (2014) 30 UP 1, 7 <https://doi.org/10.1016/j.jup.2014.05.003.>accessed 13 August 2025.

[967] Directive (EU) 2023/2413 (n 28).

[968] European Commission, *Guidelines on State aide for climate, environmental protection and energy* (2022 /C80/01).

[969] Directive (EU) 2018/2001 (n 28).

facilitate more efficient resource allocation, and expedite progress toward the EU's 2030 and 2050 climate objectives.

5.3 An Assessment of the Legal Framework for Renewable Energy and Energy Transition in the EU and ECOWAS

To effectively promote the deployment of renewable energy and facilitate energy transitions, regional organisations such as the EU and ECOWAS have developed legal and institutional frameworks. In their article titled 'Assessment of the impact of renewable energy policy on sustainable energy for all in West Africa,' Ali and Yu argue that West African countries have implemented the ECOWAS Renewable Energy Policy to encourage the utilisation of renewable energy sources.[970] As discussed in Chapters 3 and 4 of this thesis, these frameworks established can be characterised by varying dimensions, structure, penetration, and enforcement, which are underpinned by legal systems, technological development, institutional capabilities, and financial schemes, as well as environmental and social contexts. This section critically assesses these legal frameworks, examining the effectiveness, strengths, limitations, and implications for regional integration and sustainable development. This critical assessment evaluates the legislation, technological advancements, financial mechanisms, and community participation to determine their impact on promoting renewable energy and facilitating an energy transition.

5.3.1 Legislation

Globally, the European Union's legal framework regarding renewable energy is among the most advanced. Khalique and others argue that the EU has made impressive progress in formulating one of the most comprehensive environmental regulatory frameworks, establishing itself as a global leader in the fight against climate change.[971] In this respect, the EU has binding, comprehensive legislation, including mandatory governance and integrated renewable energy laws, as well as a financial framework and internal market rules, all of which are combined with EU laws.[972] On a smaller scale, ECOWAS' renewable energy policy has had a

[970] Ali and Yu (n 86).

[971] Abdul Khalique, Yichen Wang and Khalid Ahmed, 'Europe's environmental dichotomy: The impact of regulations, climate investments, and renewable energy on carbon mitigation in the EU-22' (2025) 158 EP <https://doi.org/10.1016/j.enpol.2025.114498.> accessed 24 July 2025.

[972] Chen and Vandendriessche (n 913).

substantial and beneficial impact on its primary energy supply, enabling a significant portion of the West African population to gain access to electricity.

As argued in Chapter Five, Section 5.2, EU legislations have continued to gain broad spread impact resulting from the accomplishment of set target, on the contrary, Ali and Yu's findings indicate that the beneficial impact diminishes in the years following the ECOWAS policy's implementation, suggesting that additional reforms and assistance would be required to accomplish the shared long-term Sustainable Energy for All objectives.[973] Unlike ECOWAS, the EU's renewable energy legislations were founded on an enforceable compliance mechanism, controlled support schemes, and binding legislation. As argued in Section 5.2, the EU enacted its renewable energy legislation based on the robust principle of regional integration – exclusive competence, shared competence, and supporting competence, which makes the EU's model of regional integration peculiar. Its peculiarity has provided the flexibility required within countries of diverse domestic interests, not least in matters of sovereignty, such as renewable energy.

Additionally, through transposition, EU directives are implemented into national laws by Member States, which aims to facilitate harmonisation while maintaining subsidiarity.[974] On the part of ECOWAS, the primary approach to implementing ECOWAS renewable energy legislation by member states is a 'policy-coordination model' rather than a binding legal enforcement framework.[975] Mulford and Rogers suggested that policy coordination is a process by which two or more organisations create new rules or use existing decision rules to jointly cope with similar task environments.[976] According to Nie and others, this model involves collective action across member states to promote renewable energy development, guided by

[973] Ali and Yu (n 87).
[974] Costa and Peers (522) ch 5.
[975] Ernest R Alexander, 'Interorganizational Coordination in Neighborhood Development: Four Cases' in Naomi Carmon (ed) *Neighbourhood Policy and Programmes: Past and Present* (Macmillan 1990) ch 5.
[976] ibid.

regional initiatives such as the ECOWAS Renewable and Energy Efficiency Policies.[977]

Conceptually, policy coordination is the process by which regulatory measures are jointly adopted by multiple policy-making bodies to achieve coordinated improvements in policy implementation.[978] Evidently, Ali and Yu's argument aligns with this research, which suggests that the ECOWAS coordination model may not have delivered the expected outcomes. Over 175 million ECOWAS citizens still lack access to electricity, primarily in rural regions where approximately 85 per cent of the population resides.[979] Large national rates conceal the disparities in access to electricity between rural and urban areas. ECOWAS implements its legislation primarily through four mechanisms: the execution of National Action Plans, the alignment of policies with regional frameworks, the alignment and synchronisation of national energy policies with the EREP and the ECOWAS Energy Efficiency Policy (EEEP), and the provision of technical support by ECREEE, alongside voluntary and non-binding approaches.[980]

In 2021, West African countries formally adopted the EREP. Consequently, some member states – Ghana[981] and Nigeria - have aligned their renewable energy policies with ECOWAS legislation;[982] however, the share of renewable energy in the energy mix remains insignificant. Both the EU and ECOWAS legislation have faced challenges in implementation. Essentially, ECOWAS has faced challenges, including inadequate institutional capacity in certain member states, insufficient financing for renewable energy infrastructure and policy implementation, and the absence of harmonised legal instruments throughout the region, as well as inconsistent political dedication and prioritisation. The EU's legislation and other

[977] Yan Nie, Guoxing Zhang, Hongbo Duan, Bin Su, Yichen Feng, Kaixiang Zhang and Xiulin Gao, 'Trends in energy policy coordination research on supporting low-carbon energy development' (2022) 97 EISR <https://doi.org/10.1016/j.eiar.2022.106903.> accessed 5 May 2025.
[978] ibid.
[979] Ali and Yu (n 86).
[980] ECOWAS, 'Development of a low-cost investment plan and regulatory frameworks for the deployment of BESS in West Africa (WAPP grid)' <https://www.ecowapp.org/sites/default/files/en_bess_regional_environmental_framework_fv_en.pdf> accessed 15 May 2025.
[981] Tettey and Others (n 810). <https://doi.org/10.1016/j.erss.2025.103939.> accessed 5 May 2025.
[982] Ali and Yu (n 86).

measures to mitigate the harmonisation challenge have been established. For example, EU legislation is transposed into the domestic laws of member states. There is also a feedback mechanism in place, where member states regularly provide reports on the progress being made on specific issues, such as the Renewable Energy Regulation discussed above.

5.3.2 Technological Advancement

Regional integration fosters strategic relations and collaborations among countries while also enhancing the infrastructure for renewable energy technology.[983] The EU has excelled as a global player with the potential to make significant contributions to sustainable development through its rich regulatory framework and technological advancements.[984] On its part, ECOWAS developed renewable energy policies to enhance technologies for sustainable development and energy transition initiatives.[985] Both the EU and ECOWAS' renewable energy technological options are available ubiquitously in their sub-region with various distributions. Furthermore, renewable energy resources available in the EU and ECOWAS include biomass, hydropower, solar, wind (onshore and offshore), and wave and tidal energy resources. Renewable technologies are developed based on environmental, technical, and financial assessments of the diverse renewable energy resources within a jurisdiction.

The EU's efforts to develop renewable energy technology to mitigate global concerns through its policies have yielded relatively progressive results in many EU countries. Indeed, the EU has been described as 'the World's true Mecca of Science, Technology, and Innovation.'[986] The EU member states have established research and innovation initiatives, such as 'Horizon Europe', as well as academic institutions and the world's leading innovative companies, all of which support a well-established and resilient supply chain in furthering technological

[983] Atta Ullah, Haitham Nobanee, Saif Ullah and Huma Iftikhar, 'Renewable energy transition and regional integration: Energizing the pathway to sustainable development' (2024) 193 EP <https://doi.org/10.1016/j.enpol.2024.114270.> accessed 7 May 2025.
[984] Romeo-Victor Ionescu, Monica Laura Zlati, Valentin-Marian Antohi, Irina Olimpia Susanu and Nicoleta Cristache, 'A new approach on renewable energy as a support for regional economic development among the European Union' (2022) 84 TFSC <https://doi.org/10.1016/j.techfore.2022.121998.> accessed 7 May 2025.
[985] Ali and Yu (n 86).
[986] ibid.

advancements.[987] For example, renewable energy consumption varies across Member States in Europe, with Sweden accounting for a 52.8 per cent share of total final renewable energy consumption.[988] It is followed by Finland at 45.76 per cent and Latvia at 41.52 per cent.[989] At the other end of the scale are most Central European countries, such as Poland (12.18 per cent) and Hungary (13.64 per cent), as well as the Netherlands (8.54 per cent).[990] Some Central European countries, even if they do not benefit from favourable conditions for renewable energy use, have succeeded in increasing their consumption of renewable energy through green policies (Austria - 33.77 per cent, Croatia - 31.6 per cent).[991] The EU's development of renewable technologies has not been evenly distributed, as some countries have advanced more than others. However, there are measurable footprints of the use of renewable energy sources.

On the other hand, ECOWAS has also developed various renewable energy technologies, particularly in hydropower and solar energy.[992] These have mainly been 'off-the-shelf' technologies imported and installed.[993] Consistently, national policy has prioritised the development of centralised grids and conventional sources of electric power generation.[994] On the contrary, there is a lack of explicit policies regarding the dissemination of renewable energy technologies.[995] Consequently, the development of renewable energy technology proceeds in an ad hoc manner, with no allocation of financial resources.[996] ECOWAS renewable energy technology advancements remain at a teething stage, as the science,

[987] European Commission, '2023~2024 Science, Technology and Innovation in Europe and Joint Activities with South Korea' (2024) <https://www.eeas.europa.eu/sites/default/files/documents/2024/2023-2024%20Science%2C%20Technology%2C%20and%20Innovation%20in%20Europe.pdf> accessed 9 May 2025.
[988] Ionescu and others (n 984).
[989] ibid.
[990] ibid.
[991] ibid.
[992] ECOWAS Centre for Renewable Energy and Energy Efficiency, 'ECOWAS renewable energy Policy (EREP)' (*ECREEE*, Feb 2015) <https://faolex.fao.org/docs/pdf/eco215353.pdf> accessed 9 May 2025.
[993] ibid.
[994] Sheridan Treger, 'Government consults on changes to energy national policy statements' (*BCLP*, 2 May 2025) <https://www.bclplaw.com/en-US/events-insights-news/government-consults-on-changes-to-energy-national-policy-statements.html> accessed 15 May 2025.
[995] ECOWAS EREP (n 992).
[996] ibid.

technology, and innovation infrastructure has not been fully developed. Although some member states, such as Ghana and Nigeria, have institutions and research and innovation centres, they are not well funded to manufacture or innovate in support of renewable energy technologies.

Indeed, according to the EREP baseline report and several reports on renewable energy technologies and costing approaches, the National Focal Institutions prepare a practical guideline covering the primary renewable energy least-cost options and distribute it to national renewable energy officials and regulators to assist them in selecting a technology basket.[997] Assistance will be provided to adapt the least-cost options panel for ECOWAS regions or Member States.[998] Unlike the EU, which has a robust infrastructure for technological advancements in renewable energy, ECOWAS has outsourced its role to member states and retained an 'assistance role'.[999] The 2023 updated ECOWAS Energy Policy assigns a similar responsibility towards renewable energy technological advancement to the previous one.[1000] Para 1.3: Regional situation in 2019 and 2050 projection- states that the ECOWAS Energy and Mining Directorate and ECOWAS Commission Directorate coordinate and harmonise Member States' energy policies and programmes, and design and implement technology projects.[1001] This is a projection from 2019 to 2050 for the regional situation.

5.3.3 Renewable Energy Support Scheme and Budgets

Generally, renewable energy support schemes are policy instruments to promote the deployment of renewable energy sources. These schemes are instruments to incentivise the uptake of renewables and to facilitate decarbonisation. In line with this goal, renewable energy support schemes naturally do not allocate

[997] Ali and Yu (n 86).
[998] ibid.
[999] International Renewable Energy Agency, 'Scaling up renewable energy investments in West Africa (IRENA 2023)' <https://www.irena.org/Publications/2023/Oct/Scaling-up-renewable-energy-investments-in-West-Africa> accessed 17 May 2025.
[1000] ECOWAS, 'ECOWAS Energy Policy Updated 2023' https://eis.ecowas.int/assets/front/medias/doc/media_20231011104957.pdf> accessed 9 May 2025.
[1001] ibid.

compensation to carbon-intensive energy sources.[1002] As discussed earlier, in line with Directive (EU) 2018/2001 Article 4 of the Renewable Energy Directive, 'EU countries are obliged to allocate support for electricity from renewable sources in an open, transparent, competitive, non-discriminatory and cost-effective manner'.[1003] Across the EU, operational support for utility-scale projects, such as certificate schemes, tariffs or premiums, is most often allocated on a market basis through competitive tenders (auctions).[1004] RES-E support schemes, particularly those based on feed-in tariffs, have been quite successful in promoting the deployment of RES-E technologies.[1005] The EU's initiatives are more developed, characterised by a transition to market-oriented mechanisms, such as auctions, alongside robust institutional capacity and fiscal support financing.[1006] As displayed in Table 7, the EU's key support schemes include FIT, Feed-in premiums (FIP), Quota Obligations with tradable green certificates, Loan guarantees, Soft loans, Investment grants, Tax incentives, and Tendering schemes.[1007]

Table 7: Types of Support Mechanisms

MECHANISMS	EU	ECOWAS
Feed-in Tariffs (FiTs)	Widely used on	Applied in some member states – Ghana/Nigeria
Feed-in Premiums	Replaces FiTs linked to market prices	Less common in nascent stages
Auctions/Tenders	Currently dominant model in EU states (tech-neutral or specific)	Being plotted in some countries (eg Senegal)

[1002] Mariia Kozlova, Kaisa Huhta and Alena Lohrmann, 'The interface between support schemes for renewable energy and security of supply: Reviewing capacity mechanisms and support schemes for renewable energy in Europe' (2023) 181 EP <https://doi.org/10.1016/j.enpol.2023.113707.> accessed 11 May 2025.

[1003] European Commission, *Support schemes for renewable energy* <https://energy.ec.europa.eu/topics/renewable-energy/financing/support-schemes-renewable-energy_en#:~:text=households%20and%20businesses.-,Support%20schemes%20for%20electricity%20from%20renewable%20sources,eligible%20technologies%2C%20if%20applicable).> accessed 17 May 2025.

[1004] ibid.

[1005] Paul Lehmann and Erik Gawel, 'Why should support schemes for renewable electricity complement the EU emissions trading scheme?' (2013) 52 EP 597, 607 <https://www.sciencedirect.com/science/article/abs/pii/S0301421512008762 > accessed 11 May 2025.

[1006] Qadir and others (n 818).

[1007] Climate Policy Info Hub, 'Renewable Energy Support Policies in Europe' <https://climatepolicyinfohub.eu/renewable-energy-support-policies-europe.html> accessed 11 May 2025.

Subsidies and Grants	Provided through Horizon Europe, LIFE	Supported via donor program (GTZ, UNDP, AFDB)
Net Metering	Adopted in several EU countries	Implemented in a few ECOWAS countries (eg Cape Verdes).
Tax Incentives	Vary by member state; VAT reductions, tax credits. Used in some EU countries.	Often includes import duty waivers for RE tech.
Green Certificates	Used in some EU countries.	Not commonly used in ECOWAS.

Source: Compiled by this Researcher.

ECOWAS initiatives are at a nascent stage, heavily dependent on donor assistance, and prioritise access and affordability over market integration. Additionally, most support for renewable energy comes from 'capacity mechanisms'[1008] through state aid, for example, Nigeria assigned 500 billion Naira to Solar energy.[1009] Moreover, some ECOWAS member states, including Ghana and Nigeria, have legislated feed-in tariff systems. However, in ECOWAS member states, the outcomes from the feed-in tariff support scheme have not met the set targets.[1010]

Both the EU and ECOWAS have operational support schemes in place to promote renewable energy, including loans, subsidies, and budgetary allocations. To support EU countries in achieving their renewable energy ambition and encourage a greater uptake of renewable energy sources across the EU, Regulation (EU) 2020/1294, establishing the EU renewable energy financing mechanism, entered into force in September 2020. It stems from Article 33 of Regulation (EU) 2018/1999 on Governance.[1011] Additionally, the mechanism allocates funding to new renewable projects through competitive tenders for grants.[1012] Projects

[1008] Kozlova and others (n 1002)
[1009] PVKnowhow, 'Massive Solar Installation Planned for Public Institutions in Nigeria' (*PVKnowhow*, 16 January 2025) <https://www.pvknowhow.com/news/massive-solar-installation-plan-for-institutions/> accessed 11 May 2025.
[1010] Kofi Nyarko, Jonathan Whale and Tania Urmee, 'Drivers and challenges of off-grid renewable energy-based projects in West Africa: A review' (2023) 9 (6) Heliyon, <https://doi.org/10.1016/j.heliyon.2023.e16710.> accessed 11 May 2025.
[1011] European Commission, 'EU renewable energy financing mechanism' <https://energy.ec.europa.eu/topics/renewable-energy/financing/eu-renewable-energy-financing-mechanism_en> accessed 11 May 2025.
[1012] ibid.

located on the territory of any EU country that has agreed to participate as a host country are eligible to participate.[1013] Unlocking the potential of renewable energy as a lever of socio-economic development will require a structural shift in national energy policies, enhanced institutional capacity and well-honed policy tools, in addition to international cooperation.[1014]

While EU mechanisms are adequately funded through EU funds and support schemes, ECOWAS is heavily dependent on donor funding and external partnerships.[1015] Also, the disparity in renewable energy financing received by developed versus developing countries has increased significantly over the past six years.[1016] For instance, according to IRENA's report, titled 'Sub-Saharan Africa: Policies and Finance for Renewable Energy Deployment ECOWAS', the financial investment in renewable energy has dropped.[1017] IRENA argue that investments should be scaled up considerably to realise the enormous renewable energy potential and close the vast energy access deficit.[1018] Moreover, only half of the investments in Sub-Saharan Africa between 2013 and 2020 originated from domestic sources, primarily due to the region's reliance on international capital. On the contrary, at least more than three-fourths of investments in Europe and North America came from domestic sources over the period. [1019] Below is a table of support mechanisms adopted by the EU and ECOWAS.

[1013] ibid.
[1014] International Renewable Energy Agency, 'Sub-Saharan Africa: Policies and Finance for Renewable Energy Deployment' (*IRENA*, July 2024) <https://www.irena.org/-/media/Files/IRENA/Agency/Publication/2024/Jul/IRENA_SS_Africa_policies_finance_RE_2024.pdf> accessed 11 May 2025.
[1015] IRENA and CPI, 'Global landscape of renewable energy finance 2023' (*IRENA*, 2023) <https://www.irena.org/-/media/Files/IRENA/Agency/Publication/2023/Feb/IRENA_CPI_Global_RE_finance_2023.pdf> accessed 24 July 2025.
[1016] ibid.
[1017] IRENA (n 1014).
[1018] ibid.
[1019] ibid.

Table 8: Strengths and Weaknesses.

	EU	ECOWAS
STRENGTH	Coherent and enforceable legal structure; Integrated market incentives (e.g. Guarantee of Origin, cross-border energy trade Clear monitoring and reporting.	Tailored to regional energy access needs; Growing focus on energy equity and localised renewables; ECREEE's role in technical assistance.
WEAKNESSES	Grid integration and infrastructure gaps; Delayed implementation of regional targets; Political and administrative fragmentation in Member States.	Grid integration and infrastructure gaps; Delayed implementation of regional targets; Political and administrative fragmentation in Member States.
OPPORTUNITIES	Both regions should enhance cooperation on climate finance, technology transfer, and research collaboration. Legal frameworks should increasingly account for decentralised RE systems, including wave and tidal energy, particularly in coastal ECOWAS states.	ECOWAS could explore a hybrid legal model with a phased introduction of binding commitments. ECOWAS could explore a hybrid legal model with a phased introduction of binding commitments.

In essence, the EU's legal framework for renewable energy demonstrates how financial support, institutional enforcement, and binding legal mechanisms effectively facilitate an energy transition. While ECOWAS has made notable advancements, it would be beneficial to progressively strengthen the legal efficacy of its instruments and promote deeper regional legal harmonisation.

Enhancing the implementation of ECOWAS' renewable energy laws could attract more investment and accelerate the achievement of universal access and decarbonisation across West Africa.

5.4 Evaluation of the Impact of Regional Integration on the EU and ECOWAS Renewable Energy and Energy Transition Legal Framework: Lessons for ECOWAS

Following an analysis of ECOWAS integration presented in Chapter Two, an examination of regional integration schemes discussed in Chapter Three, and an assessment of the EU's renewable energy development and energy transition legal framework in section 5.2, this researcher argues that regional integration may plays an essential role in the implementation and advancement of renewable energy laws and policies as well as the overall energy transition. For example, this research shows that in the EU, supranational governance sets legally binding targets, strives to harmonise legal frameworks- particularly support schemes, which are often 'unattained'-and coordinates policy instruments, greatly advancing its renewable energy goals. In contrast, as Chapter Four illustrates, the ECOWAS renewable energy sector is still in the early stages and therefore has room for improvement.

Consequently, this section examines the impact of regional integration on the EU's renewable energy development and energy transition legal framework, providing practical insights that can inform policy and legal reforms within the ECOWAS region. In the following sections, this research provides a succinct overview of the role of regional integration in the EU's renewable energy development and energy transition, focusing on the harmonisation of the legal framework, governance and coordination, support schemes accountability, implementation, compliance, and sanction mechanisms aimed at ensuring energy security, supply, affordability and solidarity. Subsequently, lessons learned from these observations are delineated for ECOWAS.

5.4.1 Harmonisation of the Legal Framework

In Section 5.2 above, this research demonstrates the relevance of harmonising support systems in regional integration to the advancement of renewable energy

development and the energy transition. At the same time, noting that the EU has established a strong and legally binding framework for renewable energy development, which has evolved following its TEFU provision on renewable energy, the Renewable Energy Regulation, and subsequent Renewable Energy Directives. Regarding harmonisation, this research contends that although the EU has met its overall renewable energy target, harmonising its renewable energy legal framework, particularly support schemes, remains a challenge.

However, as discussed in Section 5.2, while the EU Commission continues to conduct research and studies on potential EU-wide support schemes, the Renewable Energy Directives have laid down guidelines for member states regarding the choice of support schemes based on the renewable energy source and the specific conditions of each member state. Accordingly, this research illustrates that in EU law, the term 'harmonisation' refers to the process by which the EU establishes a standard in a particular field that all domestic legal systems must meet.[1020] In essence, the EU harmonise its policies through directives which give member states the flexibility in domesticating Union law. For example, Article 288 TFEU defines regulations as directly applicable and binding in their entirety in all Member States. In contrast, directives are binding in terms of the result to be achieved but leave it to national authorities to determine the form and methods.[1021] It is also worth noting that the European Parliament and Council issue regulations and directives.[1022]

In contrast, under the ECOWAS legal regime, directives are directly binding on member states; the Authority issues directives to harmonise and coordinate the activities of ECOWAS and its member states.[1023] However, the Council of Ministers can also issue directives based on powers delegated to it by the Authority; in such cases, the directive becomes directly binding on member states and ECOWAS institutions.[1024] Nonetheless, the study of the ECOWAS regime, its establishing treaties, and the existing renewable energy framework falls short of a directive from the Authority or the Council of Ministers calling for the harmonisation or

[1020] Costa and Peers (n 522) ch 15.
[1021] TFEU (n 23) art 288.
[1022] Costa and Peers (n 522) ch 2.
[1023] ECOWAS Treaty 1993 (n 11) art 7(3).
[1024] ibid art 10(c).

coordination of the ECOWAS renewable energy legal framework, which could provide a relevant, binding, and enforceable framework. For instance, the assessment of ECOWAS' renewable energy legal framework in Chapter Four indicates that while the ECOWAS Authority adopted ECREEE's policies of EREP and EEP, ECREEE itself was established by the Council in 2007 and re-adopted by the Council in 2020 to enhance its governance and capacity. Meanwhile, as illustrated in Chapters 2 and 4, respectively, in the ECOWAS regime, only the Authority has the power to make or delegate the power to make laws that can bind both member states and ECOWAS institutions. However, the assessment of the ECOWAS regime reveals inconsistencies within its legal framework, making it difficult to distinguish between what is stipulated in principle and what is implemented in practice. In contrast, the EU framework is straightforward and open for assessment, with relevant documents readily available online to support the evaluation.

Additionally, this research shows that, in terms of harmonising the renewable energy legal framework, ECOWAS is less functional than the EU, even though directives are directly binding under the ECOWAS legal regime. This is important because one of ECOWAS' aims, as outlined in its treaty, is to harmonise its laws and policies across areas, including renewable energy.[1025] Meanwhile, it is worth noting that, while this research is ongoing, the ECOWAS Commission held a workshop to revise the ECOWAS Energy Protocol. Nonetheless, this research argues that although ECOWAS has the legal power to make binding decisions, enforcing them remains a challenge, affecting the integration of renewable energy laws and policies. Nonetheless, Article 5 of the ECOWAS Treaty, regarding General Undertakings, calls on member states to harmonise their strategies and policies, including renewable energy development and energy transition. This provision aligns with Article 3(2) of the revised Treaty, emphasising the need to harmonise and cooperate. However, the findings in Chapter Four of this research demonstrate that ECOWAS has yet to achieve its aim of harmonising and coordinating its renewable energy legal framework. ECOWAS encountered difficulties in harmonising its renewable energy legal framework due to inconsistent policies among member states, weak enforcement mechanisms, and

[1025] ibid art 3(2).

a lack of political will.[1026] In addition, the slow pace of progress is exacerbated by the necessity for increased public awareness, limited technical capacity, weak infrastructure, and inadequate financing.[1027]

According to Elabbas and others, although ECOWAS has the legal power to make binding decisions, it lacks the necessary supranational authority to enforce them.[1028] This research contends that lessons can be learnt from the EU's supranational approach to integration, especially in addressing the energy issues facing the ECOWAS region, which demands credible commitments from member states due to unequal bargaining power between states. One can only hope that recent efforts by the Commission to revise the energy protocol would lead to an actual update of the protocol, as the need for alignment and harmonisation of the ECOWAS legal framework formed one of the workshop's proposals. Accordingly, given the apparent lack of alignment and harmonisation of the renewable energy legal framework, one cannot discuss harmonisation of support schemes in the EU, as the ECOWAS sense of harmonisation has yet to be actualised.

In summary, the need to harmonise the renewable energy and energy transition legal frameworks cannot be overstated, as harmonised national renewable energy laws through binding legal instruments have been among the most significant accomplishments of EU integration. Harmonisation places all EU Member States on the same level, weighing the benefits of a uniform Single Market against the disadvantages of prohibiting stricter national requirements that could further accelerate the sustainability transition.[1029] As previously mentioned in Section 5.2, the Renewable Energy Directive (Directive (EU) 2018/2001, also known as RED II) requires Member States to adopt National Energy and Climate Plans (NECPS) and

[1026] Mounirah Bissiri, Patrícia Pereira da Silva, Pedro Moura, Nuno Carvalho Figueiredo, 'Are West Africa's policy, planning, and regulatory frameworks missing the harmonization piece of the power pooling-renewable energy puzzle?' (2024) 190 EP < https://doi.org/10.1016/j.enpol.2024.114161.> accessed 24 July 2025.
[1027] ibid.
[1028] Mohamed A Eltahir Elabbas, Laurens de Vries and Aad Correljé, 'African power pools and regional electricity market design: Taking stock of regional integration in energy sectors' (2023) 105 ERSS <https://doi.org/10.1016/j.erss.2023.103291.> accessed 24 July 2025.
[1029] Hanna Entsalo, Harri Kalimo, Petrus Kautto and Topi Turunen, 'Analysing regulatory instruments in sustainability transitions: A combined 'intervention points' and 'roles of law' approach to the European Union's Ecodesign framework,' (2023) 42 SPC 125,13, <https://doi.org/10.1016/j.spc.2023.09.013.> accessed 15 May 2025.

establishes binding targets for renewable energy. This harmonisation has attracted significant private-sector investment in the renewable energy sector, reduced regulatory fragmentation, and provided legal certainty.[1030]

5.4.2 Governance and Coordination

Following a comprehensive analysis of regional schemes and the European Union's integration, Chapter Three argued that a regional integration scheme establishing a supranational institution fosters the confidence and trust of the contracting states. However, the review in Chapter Three suggests that the ECOWAS integration did not align with a supranational institution comparable to the European Union. Consequently, Chapter Three posited that ECOWAS constitutes an intergovernmental framework in which states, regardless of their integration arrangements, are reluctant to relinquish any of their sovereignty to an autonomous institution. Therefore, in Chapter Four, the observed disparity in energy access rates among ECOWAS member states, along with the lack of alignment and harmonisation within the ECOWAS renewable energy development and energy transition legal framework, could be attributed to the ECOWAS model of integration.

In terms of governance structure and institutional set-up, this research argued that the EU has a more democratic structure. For example, the European Commission is composed of twenty-seven (27) members, one from each member state.[1031] This suggests that although the Commissioners are to carry out their duties independently,[1032] the member states are equally represented. Furthermore, a close reading of the Treaty establishing the EU's Commission reveals that the EU takes the integrity, credibility, and independence of its Commissioners seriously.[1033] Consequently, the Commissioners swear an oath of allegiance to the protection of the EU's general interest before and after they

[1030] European Commission, 'Corporate sustainability due diligence' (*European Commission May*, 2025) <https://commission.europa.eu/business-economy-euro/doing-business-eu/sustainability-due-diligence-responsible-business/corporate-sustainability-due-diligence_en> accessed 15 May 2025.
[1031] Treaty on European Union, art 17; TEFU (n 23) arts 244, 250.
[1032] TFEU (n 23) art 245.
[1033] TEU (n 1031) art 17; TEFU (n 23) arts 244, 250.

leave office.[1034] Individuals who are in breach have been referred to the Court of Justice, and if found to be in breach, can be compulsorily retired.[1035] For example, in the case of *Cresson*, where a Commissioner had to resign for employing a friend as an adviser,[1036] and the case of *Dalli,* which still involves a Commissioner's relations.[1037]

On the contrary, one cannot safely argue that the ECOWAS Commission can represent the member states evenly, as the Authority appoints its members.[1038] The Authority, as discussed in Chapter Two of this research, represents the leading institution of the ECOWAS, whose integrity, credibility, and independence are debatable because the Authority, it is argued, cannot independently represent the ECOWAS when it is composed of Heads of State and Government and headed by a President of a member state at one time. Accordingly, this research argued that ECOWAS lacks democratic principles, as revealed by the ECOWAS integration arrangement. For example, the EU's Commission, described as the integrationist in section 5.2 above, oversees the implementation of the EU's renewable energy directives in member states to meet the overall EU target.

The Commission, as noted above, acts independently of the member states and is composed of individuals from the 27 member states, whose integrity and credibility are not in question. As a result, the Commission can hold member states accountable for breaching the directive. However, this research finds that neither the Authority nor the ECOWAS Commission can hold member states responsible for breaching the renewable energy legal framework. This is because if the Chairman of the Authority at the time of the breach is the president of the member state in breach, the said Chairman is likely to prioritise national interests over regional integration arrangements, as argued in Chapter Three of this research, which investigated ECOWAS' integration model. Conversely, the ECOWAS Commission faces limitations in holding member states accountable for violations, as these

[1034] TFEU (n 23) art 245.
[1035] ibid art 247.
[1036] *Commission vs Cresson* (Case C-432/04).
[1037] *Dalli vs Commission* (Case C-394/15P).
[1038] ECOWAS, 'Governance Structure' < https://www.ecowas.int/governance-structure/ > accessed 17 May 2025.

states may assert their sovereignty and challenge the Commission's authority to contest national decisions.

Furthermore, the assessment of ECOWAS' renewable energy and energy transition laws and policies in Chapter Four of this research reveals that ECOWAS has enacted laws and policies to achieve its goal of providing clean, secure, and affordable electricity to its citizens. However, as discussed, these frameworks are not binding on the member states. For example, this research found that within the ECOWAS legal regime, any law or policy enacted by ECOWAS institutions, except the Authority, does not bind the member states. Nonetheless, such enactments become legally binding when the Authority has delegated powers or when the Authority adopts the enactment. Thus, this research finds that the ECOWAS governance structure has harmed the advancement of renewable energy and energy transition laws and policies within the ECOWAS. As shown in Chapter Four, this is because the ECOWAS renewable energy laws and policies serve as guidelines, rather than being binding on member states, as argued by this research.

This research finds that the ECREEE, an institution purportedly created by ECOWAS to address renewable energy development and energy efficiency matters, was established by the Council of Ministers. In contrast, the WAPP, established to manage power transmission within the ECOWAS, was created by ECOWAS members and the Authority. This is why this research argues that ECREEE is not binding on member states, as the findings indicate that decisions and actions by the Council of Ministers under the ECOWAS treaty are not binding on member states. However, this research finds that the Authority adopted the ECREEE's 2013 EREP, discussed in Chapter Four, through a Supplementary Act to give it legal status, consequently binding it on member states. Accordingly, EREP became the ECOWAS Supplementary Act on Renewable Energy Policy (ESAREP).

Nonetheless, the study of the ECOWAS renewable energy and energy transition legal framework in Nigeria, Ghana, and Liberia, as presented in Chapter Four, reveals that the ECOWAS renewable energy and energy transition laws and policies are primarily directive, subject to domestic measures, and not legally binding and enforceable like the EU renewable energy regulations or directives. Hence, there

are issues of a lack of alignment and harmonisation within the ECOWAS framework because member states individually develop their renewable energy sectors. Nigeria frequently updates its renewable energy and climate change policies in response to global debates on renewable energy use and development, as well as the energy transition. The table below outlines the core institutions of the EU and ECOWAS, along with their respective compositions.

Table 9: EU and ECOWAS Institutions and Composition.

No.	EU (27 States)	Composition	ECOWAS (15 states)	Composition
1	The Commission[1039]	27 Members including its president, one from each MS	The Authority of Heads of State and Government of the Community.[1040]	Heads of state and/or Government of member state.
2	European Parliament[1041]	Non-elected 750 members plus the president	Parliament of the Community.[1042]	120 REPS of MS, at least five from each.[1043]
3	European Council[1044]	Heads of State, or of Government of MS with the president of the Commission.	The Commission of the Economic Community, formerly ECOWAS Secretariat.[1045]	Headed by the President, assisted by a Vice President and five experienced professional Commissioners.[1046]
4	The Council[1047]	27 Reps of MS, one from each state, (must be a domestic politician)	Council of Ministers of the Community.[1048]	Foreign Affair ministers of the member states.

[1039] TFEU (n 23) arts 17, 244.
[1040] ECOWAS Treaty 1993 (n 11) art 7.
[1041] TEU (n 1031) art 14(2).
[1042] ECOWAS Treaty 1993 (11) art 13.
[1043] ECOWAS Protocol A/P.2/8/94 <http://ecowas.akomantoso.com/_lang/fr/doc/_iri/akn/ecowas/statement/protocol/1994-08-06/A_P2_8_94/eng@/!main> accessed 27 July 2022.
[1044] TFEU (n 23) arts 235, 236.
[1045] ECOWAS Treaty 1993 (n 11) art 18.
[1046] ECOWAS Commission, 'The Commission' < https://www.ecowas.int/institutions/the-commission/ > assessed 20 October 2024.
[1047] TEU (n 1031) art 16; TFEU (n 23) arts 237, 243.
[1048] ECOWAS Treaty 1975 (n 10) art 10.

5	Court of Justice of the European Union[1049]	27 members one Judge from each Member state	Court of Justice of the Community.[1050]	Five independent Judges appointed by the Authority.[1051]

Additionally, as shown in the table above, the European Council is similar in composition to the ECOWAS Authority. However, while the European Council does not exercise legislative functions, the ECOWAS Authority is the main legislative body.[1052] Also, decisions of the European Council are primarily made by consensus.[1053] In contrast, the ECOWAS Authority is the only body within the ECOWAS that creates laws and policies that directly bind both Community members and Community institutions.[1054] This is why this researcher maintains that the ECOWAS lacks democratic tenets, which has affected the progress of ECOWAS integration, including the ECOWAS' inability to achieve its integration aims of increasing access to electricity for its citizens through the harmonisation of its energy laws and policies. For example, the EU's Parliament and Council enact a Renewable Energy Directive, accompanied by a Regulation that empowers the Commission to oversee the implementation of the directive across its member states and to ensure the achievement of the EU's overall renewable energy consumption target.

On the contrary, the ECOWAS lacks such monitoring and implementation mechanisms. This is why, in this researcher's opinion, the ECOWAS countries, as demonstrated in chapter four, merely referred to the ECREEE's renewable energy and energy efficiency policies without necessarily implementing them domestically. Ultimately, member states of the ECOWAS are not required to report annually to a body, unlike EU member states, as noted in the 2018 Regulation above. ECOWAS members are also not required to submit a national action plan to the Commission for scrutiny, ensuring coherence, alignment, and consistency.

[1049] TEU (n 1031) art 19; TEFU (n 23) arts 251, 281.
[1050] ECOWAS Treaty 1993 (n 11) art 15.
[1051] ECOWAS Protocol A/P1/7/91 (2006).
[1052] ECOWAS Treaty 1993 (n 11) art 7.
[1053] TEU (n 1031) art 15; TFEU (n 23) arts 235, 236.
[1054] ECOWAS Treaty 1993 (n 11) art 7.

In contrast, EU countries are required to report annually to the European Commission on their national plans, strategies, and successes for coherence.

In line with the EU's renewable energy legal framework, regional integration is argued to have enhanced energy security, supply, and affordability by enabling nations to rely on collective resources and coordinate synchronised emergency responses.[1055] The solidarity mechanisms ensure that, in cases of supply disruptions, Member States can assist one another through interconnected systems and shared reserves. The EU's energy governance framework is predicated on accountability and compliance.[1056] Periodic reporting and evaluation are used by the European Commission to monitor the implementation of directives and national objectives. Infringement proceedings before the Court of Justice of the European Union may result from non-compliance, thereby ensuring that Member States face both legal and reputational repercussions.[1057] Essentially, legal remedies and financial sanctions that reinforce the binding nature of directives such as RED II encourage compliance. Furthermore, transparency and accountability are further enhanced by institutional mechanisms, including peer reviews and the Energy Union Governance Regulation.[1058]

5.4.3 Lessons for ECOWAS

In conclusion, this research illustrates that the integration of the ECOWAS parallels that of the EU. Nevertheless, the legal framework pertaining to renewable energy and energy transition within ECOWAS, as examined in this research, is predominantly functional rather than operational, in contrast to that of the EU. The EU, as previously noted, originated with six member states and currently

[1055] European Parliament, 'Briefing: EU energy infrastructure: Boosting energy security' (*European Parliament*, 2025) <https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/753956/EPRS_BRI%282023%29753956_EN.pdf> accessed 15 May 2025.

[1056] Karina Veum and Dierk Bauknecht, 'How to reach the EU renewables target by 2030? An analysis of the governance framework' (2019) 127 EP 299, 307, <https://doi.org/10.1016/j.enpol.2018.12.013.> accessed 15 May 2025.

[1057] European Commission, 'Infringement procedure' (*European Commission*, 2025) <https://commission.europa.eu/law/application-eu-law/implementing-eu-law/infringement-procedure_en> accessed 15 May 2025.

[1058] Nils Bruch, Michèle Knodt and Marc Ringel, 'Advocating harder soft governance for the European Green Deal. Stakeholder perspectives on the revision of the EU governance regulation' (2024) 192 EP <https://doi.org/10.1016/j.enpol.2024.114255.> accessed 15 May 2025.

comprises 27 members. Notably, only one member has left since the organisation's inception, while other European countries are seeking to join the EU. This, as argued in this research, is due to the EU's structure, which features a supranational institution in which member states willingly give up sovereignty over specific issues to be managed collectively by a neutral centre.

This research also demonstrates that there are practical challenges. Although there are structural similarities, the degree of integration varies. For instance, the EU has stronger enforcement mechanisms through the CJEU, a binding legal authority, and a broader pool of sovereignty. On the contrary, ECOWAS faces challenges related to domestic enforcement, compliance and political will among member states. ECOWAS continues to grapple with adopting a common currency within its region, and exploitation of its rich renewable energy resources remains largely member-state-focused rather than a sub-regional agenda. Accordingly, this research on the EU's integration and how the EU manages renewable energy development and energy transition issues, particularly regarding its citizens' energy access rates, energy security, supply, and affordability, draws the following lessons for the ECOWAS:

First, in terms of sovereignty, it has been argued that sovereignty is a significant hurdle to the progress of regional integration schemes. However, following the EU's example, this researcher maintains that the issue of sovereignty can be managed. For instance, in Haas' definition of integration, countries relinquish certain powers to a centre, and integration can, in due course, extend to other issues. Therefore, this researcher believes that by addressing the ECOWAS citizens' issues of energy poverty, lack of clean and sustainable energy sources, energy security, supply, and affordability, the ECOWAS countries can further integrate their renewable energy sector and collaborate with relevant sectors in member countries to establish legally binding laws and policies, including monitoring, evaluation, implementation, and sanction mechanisms. Energy issues are vital and can be better managed collectively due to the need for expertise, technological innovation, and the funds required to develop renewable energy sources.

Furthermore, following the EU's example, this researcher believes that the issue of sovereignty can be managed. For instance, this research notes that the EU operates on the principle of shared competences, including exclusive, shared, and supporting competences, as discussed in Section 5.2. Energy issues under EU law are a shared competence, following the principle of conferral.[1059] Under the principle of conferral, the Union operates within its designated boundaries; consequently, powers that have not been conferred upon it by the treaties are retained by the member states. Therefore, the members of ECOWAS may not be required to forfeit their full sovereignty concerning the development of renewable energy and related energy transition matters.

Secondly, regarding the creation of a supranational institution to address ECOWAS' energy poverty issues, this research finds that ECOWAS may consider establishing a body similar to the EU Commission. This is because the ECOWAS countries do not share the same economic and social status. For example, as noted in Section 5.2, to achieve the aim of the common market, EU law requires the Commission to consider the economic development of its member states. This is laudable because the contracting parties are not on the same pedestal. Additionally, establishing a supranational institution with an equitable distribution and a focus on addressing energy poverty in ECOWAS is vital. It will build confidence among the bloc's smaller countries and deter larger countries from undermining or usurping their interests. For instance, in Chapter Four, this research found that, in addition to lacking financial resources for development, Liberia has potential renewable energy sources but also lacks expertise, technological advancements, and relevant policies. With a supranational institution, this researcher believes these issues can be collectively managed to place all countries on an equal footing, thereby providing countries with the benefits of regional integration through a neutral centre.

Thirdly, regarding its governance structure, ECOWAS should consider redefining the Authority's powers, which is its principal institution, comprising Heads of State and Government. The findings indicate that only the Authority has the power to enact legally binding laws or policies under ECOWAS treaties. Essentially, any law,

[1059] TEU (n 1031) art 5.

policy, or specialised institution of ECOWAS that is not established or accepted by the Authority lacks binding force on its members. Consequently, this research suggests that ECOWAS integration may struggle to meet its objectives because the Chairman of the ECOWAS Authority, who also acts as the president of a member state, may not effectively advocate for ECOWAS' interests to ensure fair outcomes for all members. Therefore, the researcher argues that the ECOWAS Authority possesses too much power.

Consequently, this research argues that the current governance structure of ECOWAS is affected by a conflict of interest on the part of the ECOWAS Authority and its Chairman. For instance, the EU Commission, which oversees the overall well-being of the EU and monitors the application of national renewable energy action plans, operates independently, with minimal national influence.[1060] This autonomy, this research contends, could provide advantages to its member states, especially those facing challenges related to financing, expertise, and technological innovation in the adoption and development of renewable energy, including the energy transition. Therefore, the ECOWAS could enhance the power of its Commission, rendering it operationally independent and fully representative of all member states.

Finally, the legal framework for renewable energy development and energy transition within ECOWAS remains neither sufficiently robust nor evolving. For instance, the ECOWAS Energy Protocol was enacted over two decades ago. Considering global mandates and ongoing debates regarding the necessity of diversifying energy sources and transitioning from fossil fuels to renewable energy, ECOWAS could have aligned its laws and policies with those of certain member states, including Nigeria and Ghana. For example, Chapter Four of this research shows that Nigeria's economy relies mainly on oil and gas; nevertheless, Nigeria continues to update its energy legal framework to implement renewable energy policies. Notably, Nigeria has amended its 2023 Electricity Act to establish a more binding framework for the utilisation and development of renewable energy sources within the nation. Conversely, the European Union continues to enact legislation to achieve its renewable energy and energy transition targets,

[1060] Regulation (EU) 2021/1119 (n 27) art 29.

which, as previously mentioned, the EU has largely met, despite not yet instituting a comprehensive EU-wide supporting scheme for renewable energy sources. Consequently, ECOWAS must enhance its efforts and align with global expectations regarding the utilisation and development of renewable energy sources, as well as promote energy transition. This initiative will ultimately address issues related to energy poverty, security, supply, and affordability for citizens of the ECOWAS region.

5.5 Conclusion

In conclusion, the experience of the EU illustrates that regional integration serves as an effective catalyst for the deployment of renewable energy and the harmonisation of legal frameworks. The ECOWAS may derive significant lessons from this by fortifying institutions, investing in cross-border infrastructure, utilising market-based mechanisms, and adopting binding regional legal instruments, despite confronting unique economic and institutional realities. Furthermore, establishing clear accountability measures, sanctions, and compliance mechanisms will be crucial to ensuring that commitments are effectively implemented. These initiatives will enhance the region's capacity to achieve its renewable energy goals and foster sustainable development.

CHAPTER SIX

RESEARCH FINDINGS AND OVERALL CONCLUSION

6.1 Introduction

Overall, this research shows that regional integration, established within the framework of a supranational institution, would optimally serve the objectives of the contracting countries, irrespective of their economic and social status. Evidently, supranational regional integration more effectively ensures credibility, commitment, uniformity, stability, and inclusiveness, as supported by empirical data from the EU.[1061] In this regard, the EU's supranational legal frameworks, primarily comprising the European Commission, the European Parliament, and the Court of Justice of the EU, have ensured the uniform implementation of regional policies and binding commitments.[1062] Consequently, EU member states have guaranteed cohesion funds, infrastructure support, legal certainty, and the free movement of goods, persons, and services, thereby giving members access to broader markets.[1063] Particularly, mechanisms for financing renewable energy are outlined in Regulation (EU) 2020/1294.

Furthermore, supranational frameworks mitigate the impact of domestic political volatility and facilitate rule-based dispute resolution, as demonstrated by the Court of Justice of the European Union's (CJEU) doctrines of direct effect and supremacy, which ensure that EU laws take precedence over conflicting national legislation.[1064] EU supranationalism presents its challenges, including the uneven distribution of benefits among member states and its impact on national sovereignty.[1065] The EU's framework for economic, social, and legal integration

[1061] European Union, 'Key European Union achievements and tangible benefits' (*European Union*, 2025) <https://european-union.europa.eu/principles-countries-history/achievements_en#:~:text=The%20EU%20has%20achieved%20a,the%20world's%20trade%20in%20goods.> accessed 26 July 2025.

[1062] Chen and Vandendriessche (n 913).

[1063] ibid.

[1064] Case 6/64 *Costa v ENEL* [1964] ECR 585.

[1065] Tomas Maltby, 'European Union energy policy integration: A case of European Commission policy entrepreneurship and increasing supranationalism' (2013) 55 EP https://doi.org/10.1016/j.enpol.2012.12.031.> accessed 26 July 2025.

demonstrates the potential benefits of collective action and shared governance, despite disparities among member states and the challenges that exist. For instance, Article 27 of the TFEU urges the EU Commission to take into account differences in development among member states in its efforts to achieve the aims of the common market.

Accordingly, this research argues that the EU's approach to regional integration could be leveraged to address the global demand for the development and utilisation of renewable energy resources, as well as to facilitate the energy transition. In contrast, an intergovernmental approach to regional integration, such as ECOWAS, emphasises state sovereignty and the powers of national governments, as noted in Chapter Three, which tends to undermine regional frameworks and lacks credibility. The study of the ECOWAS approach shows that member states have exhibited selective compliance and policy fragmentation. One example is the inconsistent implementation of the ECOWAS Protocol on Free Movement of Persons.[1066] At various times, Nigeria and Ghana have implemented unilateral restrictions or closed their borders, citing national security or economic concerns, thereby violating their regional commitments.[1067] Additionally, there is inadequate judicial oversight. National governments frequently disregard the decisions of the ECOWAS Court of Justice due to political resistance and insufficient enforcement, despite the court having a binding mandate.[1068]

Therefore, in ECOWAS, achieving consensus is particularly challenging, especially in the context of energy sharing and political reform, as national interests often take precedence over regional objectives, where state sovereignty is the

[1066] Joseph Kofi Teye, Mariama Awumila and Ebenezer Nikoi, 'Ambiguity and Symbolism in the Implementation of the ECOWAS Free Movement protocol: Evidence from Ghana and Sierra Leone' (2019) 5(2) AHMR <https://www.researchgate.net/publication/335160866_Ambiguity_and_Symbolism_in_the_Implementation_of_the_ECOWAS_Free_Movement_Protocol_Evidence_from_Ghana_and_Sierra_Leone > accessed 11 August 2025.

[1067] Uko E Uwak and Victor Edem Ebong, 'Nigeria Border Closure and the ECOWAS Protocol on Free Movement of Persons, Residence and Establishment among Member States: Implication For ECOWAS Sub-Regional Cohesion' (2023) 6 (1) EJPSS < https://oapub.org/soc/index.php/EJPSS/article/view/1405/1984 > accessed 11 August 2025.

[1068] *SERAP v Nigeria and Ors*. ECW/CCJ/APP/07/10.

prevailing principle.[1069] ECOWAS Proposals for the Regional Electricity Market and Cross-border Renewable Energy projects have been hindered by national protectionism over resource allocation and a lack of consensus on revenue sharing.[1070] Evidently, these arrangements are less advantageous for less developed economies. Consequently, this research asserts that regional integration may benefit all contracting countries by establishing an independent centre to address common issues. Importantly, this research elucidates a clear distinction between regional integration and intergovernmental arrangements. Moreover, cooperation among geographically connected countries does not necessarily lead to the formation of regional organisations, such as the EU. Such arrangements, regardless of whether the member states are situated within the same region, may represent agreements between countries while maintaining their sovereignty. Consequently, this chapter presents key findings and lessons for ECOWAS. It summarises the previous chapters and concludes the discussion by detailing how the research objectives were addressed in the various chapters of this research, including its findings, limitations, and overall conclusions.

6.2 Addressing the Research Objectives

The research conducts a critical examination of the ECOWAS renewable energy legal framework, assessing the extent to which regional integration and cooperation can facilitate the development of renewable energy and support the energy transition within the ECOWAS sub-region, drawing on pertinent lessons from the EU. The research objectives were achieved by addressing the primary research question of how the ECOWAS integration has contributed to promoting renewable energy development through its regional legal and institutional frameworks, and how its regional integration strategy can be further utilised to facilitate the energy transition for sustainable development.

[1069] Sampson Edodi and Frank Ahimbisibwe, 'Challenges of deepening political commitment and long-term legitimacy in West African integration and the future of ECOWAS' (2024) 10(1) CSS <https://doi.org/10.1080/23311886.2024.2420465> accessed 27 July 2025.

[1070] G Ofosu-Peasah, E Ofosu Antwi, W Blyth and E Effah-Donyina, 'Assessment of energy security in West Africa: A case study of three countries' (2024) 10 (21) Heliyon <https://www.cell.com/action/showPdf?pii=S2405-8440%2824%2915825-2 > accessed 11 August 2025.

The research addresses this inquiry by specifically identifying significant challenges and lessons, which aim to enhance the ECOWAS legal framework. However, this research finds that the current ECOWAS regional and institutional frameworks may not effectively promote renewable energy development, primarily because the ECOWAS approach to integration has affected its institutional capacity and because its laws and policies are not consistently implemented or enforced. Nonetheless, this research argues that the ECOWAS integration could be leveraged to encourage regional strategies for the utilisation and development of its renewable energy resources, thereby facilitating the energy transition necessary for sustainable development in the ECOWAS region. The methodology employed to achieve the objectives of this research primarily involved a qualitative approach, with additional utilisation of doctrinal and comparative law methods. To fulfil the research's aim, the following specific objectives are outlined, accompanied by a concise summary of the findings on each objective as discussed below:

6.2.1 Objective One

To investigate the global renewable energy sector, thereby establishing connections between sustainable development, renewable energy development, the energy transition legal framework, regional integration, and the renewable energy legal framework.

In summary, **Chapter One** objective one, which established the symbiotic relationship between sustainable development, renewable energy development, energy transition, regional integration, and the ECOWAS renewable energy legal framework, all of which support the development of renewable energy, and the transition from fossil fuels to renewables.

- **Sustainable Development**

The investigation revealed that the UN has been actively working to address global environmental challenges, including climate change, by promoting the development of alternative energy sources. In this regard, the UN's Framework Convention on Climate Change established a platform for countries to discuss and agree on strategies to address these issues. Additionally, the Brundtland Report

led to the development of international agreements, such as the 2015 Paris Agreement, which encourages the development of renewable energy and promotes energy transition. The UN's efforts have been instrumental in popularising the notion of sustainable development in international environmental law and other discourses on ecology, poverty, economy, and energy. Consequently, these agreements, including the Paris Agreement, have influenced regional and national legislation, such as the ECOWAS and the EU's regional legal frameworks, which were critically assessed in Chapters Four and Five, respectively. In practice, these agreements established binding legal frameworks and supranational enforcement, which is beneficial to other regional entities, especially ECOWAS. Depending on the approach to integration of the agreements, they could benefit contracting states by promoting energy access, security, supply, and affordability.

- **Renewable Energy Development and Energy Transition**

The International Energy Agency defines renewable energy as sources such as wind, solar, wave, tidal, and hydropower. It emphasises the need for renewables in the electricity generation, power, heat, and transport sectors to limit the global temperature rise to below 1.5°C. As previously stated, the 2015 Paris Agreement called for a shift from fossil fuels to renewables, promoting the energy transition. Consequently, the EU and ECOWAS member states have developed measures, including support schemes for the deployment of renewable energy. The global context is intertwined with renewable energy development, which implies the transition from fossil fuels to renewable energy resources, with the ultimate aim of enhancing energy access, security, supply, and affordability through a robust legal framework for renewable energy development and energy transition in the West African sub-region.

- **Regional Integration**

The research identifies that global issues such as environmental disasters, energy security, supply, affordability, technological advances, and economic and social growth are beyond the scope of any single government or organisation. Indeed, nations have reached both binding and non-binding agreements to address these challenges. However, this research finds that the implementation and enforcement of these agreements are sometimes hindered by state sovereignty,

as discussed in the case of the EU and ECOWAS in Chapter Five. For example, the World Bank argues that multidimensional regional integration promotes renewable energy and sustainable development. Nonetheless, when states are more concerned about their sovereignty, it becomes a challenge for cooperation and collaboration in promoting the use and development of renewables, not least in the context of sustainable development.

This research argues that the EU has effectively utilised regional integration to enhance energy access, affordability, and security through its supranational governance, coordinated infrastructure investments, and binding targets. On the contrary, despite its visionary policies, ECOWAS continues to face challenges caused by insufficient infrastructure connectivity, weak institutional enforcement, and sovereignty issues. Therefore, this research contends that to realise the full benefits of West Africa's renewable energy resources and facilitate the energy transition, the ECOWAS must revisit its approach to integration and manage the problem of sovereignty to invest in cross-border infrastructure, foster regional solidarity, and strengthen legal harmonisation, as well as implementation and enforcement of its laws and policies.

- **Africa – West Africa- ECOWAS and Energy Access in Brief**

Africa, including West Africa, is endowed with a wealth of natural resources, including vast deposits of fossil fuels and extensive renewable energy sources. In sync with global demands, a multilateral agreement established ECOWAS in 1975 and was revised in 1993, among other objectives, to promote regional integration among its member states. For instance, the 1982 ECOWAS energy policy laid the foundation for renewable energy and energy transition. Subsequently, ECOWAS established the ECREEE, the ERERA, the WAGPA, and the WAPP to achieve its aim of increasing access to electricity for its citizens and businesses. The ECOWAS' efforts to develop its renewable energy legal framework align with global demands, not least by mirroring the EU's renewable energy legal framework, as outlined in Chapter Two.

Furthermore, the critical evaluation of ECOWAS' legal framework revealed significant findings in line with the aim of this thesis. For instance, this research suggests that a substantial obstacle to the progress of ECOWAS integration and its

renewable energy sector is state sovereignty, an issue that the EU has addressed through its approach to integration. The review of ECOWAS integrations shows that ECOWAS members, unlike EU members, are unwilling to surrender their independence to a neutral centre. However, this research argues that, in terms of advancing renewable energy use and development and addressing the energy crisis facing the region, ECOWAS members could leverage the ECOWAS integration by establishing supranational institutions due to the need for credibility and the uneven nature of renewable energy resources, including financing, expertise, and technological advancements.

6.2.2 Objective Two

To review the integration of ECOWAS, including its historical background, legal framework, and governance structure.

To achieve Objective Two, Chapter Two critically examined the history, background, formation, and legal framework of ECOWAS integration, providing support to the advancement of renewable energy and the energy transition in the ECOWAS sub-region. This chapter demonstrates that colonialism has profoundly impacted and continues to shape the legal systems of West African countries, and consequently, the Economic Community of West African States. It was contended that ECOWAS can operate more effectively when its institutions function autonomously, indicating that national politicians are not directly engaged in supervising ECOWAS operations. Upon analysing colonialism, its consequences, and the decolonisation process in West Africa, alongside the formation and functioning of ECOWAS, it became evident, to a certain degree, why ECOWAS and its institutions lacked the necessary authority to enforce binding legislation among its member states. Primarily, this is caused by a lack of requisite authority to implement binding legislation, owing to the intergovernmental structure of the organisation, member states' emphasis on national sovereignty, and the deficiency of an effective legal enforcement mechanism.

Nevertheless, a reformed ECOWAS integration could be utilised to address issues related to energy poverty, security, supply, and affordability within the sub-region. Acknowledging that ECOWAS member states are sovereign and

independent, and considering the wealth of natural resources within ECOWAS, the research argues that adopting a reformed model of integration could mitigate the economic and social difficulties encountered by their populations, thereby addressing issues such as energy poverty, access, security, and affordability. For instance, this analysis demonstrates that one of the ways the EU has addressed its issue of sovereignty is by establishing competences and fostering a spirit of solidarity within its legal regime, as discussed in Chapter Five. This is why this research argues that the EU's approach to regional integration addresses the issue of sovereignty, as it demonstrates that member states still retain bargaining power in certain areas. Accordingly, in areas where specific expertise is required and the issue exceeds the capabilities of national governments, bargaining power can be shared.

6.2.3 Objective Three

Define and evaluate global concepts of regional integration to support renewable energy, sustainable development, and energy transition.

To realise objective three, chapter three examined global concepts of regional integration and the origins of integration through the history and background of the EU's integration. This research then argues that regional integration can promote the development of renewable energy, facilitate energy transition, and contribute to sustainable development. Furthermore, it contends that regional integration has proven to be an effective strategy, successfully achieving national objectives, particularly in the energy sector of the EU. Additionally, chapter three argued that treaty-driven integration, which establishes a supranational organisation and includes a transparent dispute resolution process, is advantageous. By analysing the EU and ECOWAS' integration mechanisms, the research highlighted neofunctionalism and intergovernmentalism. Neofunctionalism involves ceding some sovereignty to a central authority, whereas intergovernmentalism entails states maintaining their sovereignty while collaborating to achieve common goals. Moreover, chapter three argued that the EU's approach to integration, which established supranational institutions, would discourage member states from breaching treaty obligations and prevent undue influence from more powerful nations within the bloc. Consequently, Chapter

Three strongly concludes that regional integration schemes, established along the lines of supranationalism, would ensure fair treatment, credibility, manage power imbalances, and justice for all their members.

6.2.4 Objective Four

To critically assess the ECOWAS laws and policies on renewable energy, thereby determining how they have advanced the transition from fossil fuels to cleaner and sustainable energy resources, and to review the ECOWAS renewable energy laws, policies, institutions, and programmes, as well as those of its member states and their impact on the existing legal framework of the member states.

To achieve objective four, Chapter Four critically evaluated the ECOWAS legal framework on renewable energy development and its impact on national and regional renewable energy laws and policies, particularly in light of the ECOWAS Treaty, Energy Protocol, and the establishment of institutions aimed at promoting the development of abundant renewable energy resources in West Africa. However, this research in Chapter Four shows that, in principle, ECOWAS renewable energy laws and policies are binding on member states, yet they are mainly directive in practice, leading to limited and less effective cooperation, alignment, and coordination within the ECOWAS legal framework concerning renewable energy in the sub-region. For instance, Chapter Two shows that most ECOWAS member states do not enforce ECOWAS Court decisions in their domestic courts. This is why this research argued that the ECOWAS intergovernmental approach to regional integration poses a challenge to the progress of ECOWAS integration, as member states are unlikely to uphold the decisions of the ECOWAS courts. This is important because of the court's role in ensuring the rule of law, equal treatment, and justice, particularly when there are disparities in the economic development of the member states.

Furthermore, Chapter Four revealed that the ineffectiveness of the legal framework in promoting the development of renewable energy, thereby challenging facilitation and support for the energy transition. Specifically, at the national level, the assessment of Nigeria, Ghana, and Liberia’s legal framework

demonstrates an urgent need for more robust policy alignment, regulatory assistance, mobilisation of financial resources, encouragement of technological innovation, assurance of environmental sustainability, and social inclusion within the ECOWAS sub-region. Additionally, this chapter argues that the current ECOWAS governance structure is inadequate and does not effectively advance and harmonise its renewable energy legal framework. For instance, a thorough analysis of the 2023 ECOWAS Report revealed significant disparities in energy access throughout most member states, highlighting an energy-related challenge that has substantially impacted both national and ECOWAS regions. Consequently, a reformed ECOWAS integration would necessarily involve political change and agreement on economic objectives to create enforceable legal commitments that can ensure a meaningful energy transition.

6.2.5 Objective Five

To critically analyse the EU and ECOWAS Renewable Energy Development and Energy Transition Legal Framework and determine the impact of their regional arrangements, justifying the need for strengthening ECOWAS laws and policies to advance renewable energy and transition from fossil fuels to cleaner, sustainable energy resources.

The thesis' penultimate chapter, Chapter Five, focused on Objective Five, which analysed the renewable energy legal frameworks of the EU and ECOWAS. It argued that the EU's framework has influenced renewable energy development and the energy transition. It suggested that ECOWAS can learn from the EU's experience to enhance its efforts in cooperation and collaboration within the renewable energy sector. This can promote the use and development of renewables, thereby facilitating the energy transition across the ECOWAS sub-region. In this regard, Chapter Five presents the EU's integration approach, renowned worldwide for its accountable, transparent, dynamic, and binding treaty provisions, regulations, and directives, thereby strengthening its governance and institutional frameworks. Furthermore, Chapter Five discussed ECOWAS' non-binding laws and policies, highlighting the limited national and regional impact, including the non-enforcement of ECOWAS Court decisions by member states.

Furthermore, Chapter Five determined that EU regional arrangements have progressively impacted the renewable energy legal framework and energy transition through their robust governance structure, which promotes the monitoring, evaluation, and implementation of renewable energy laws and policies. For example, as revealed in Chapter Five, Section 5.2, the EU legal framework prohibits Commission members from seeking or accepting instructions from any government, institution, body, or entity, and they must avoid any actions that could conflict with their responsibilities or the execution of those responsibilities. ECOWAS could establish a legal framework that delineates responsibilities and obligations, along with enforcement mechanisms, sanctions, and implementation measures, aligned at both national and regional levels, to promote and facilitate the transition to renewable energy.

Chapter Five then outlined key strategies for effective energy governance, emphasising the importance of establishing transparent, inclusive, and trustworthy institutions that are responsible, accountable, and capable of coordinated action across government. It also highlights the need for a legal and regulatory framework that encourages renewable energy development to support the energy transition, along with a clear enforcement framework with well-defined responsibilities and obligations. ECOWAS could assess its existing renewable energy and energy transition legal framework, not least its institutional competence in terms of transparency, responsiveness, and accountability. For instance, Chapter Five, Section 5.2, shows that the EU's robust renewable energy legal framework has contributed to the successful access to electricity for EU citizens, which, as of 2022, stands at 100% for all EU members.

Moreover, Chapter Five, Section 5.2 emphasises the importance of harmonisation within the EU's legal framework for renewable energy development in establishing a cohesive EU-wide renewable support scheme. It argues that issues with harmonisation arise from the diverse sources of renewables, which lead to different support schemes adopted by EU countries. Nevertheless, the EU framework, as demonstrated, provides guidance to member states regarding the support schemes they adopt, and requires them to report annually to the EU Commission on the impact of these schemes in meeting the EU's renewable consumption targets. The Commission is also tasked with ensuring the credibility of the schemes, as well as monitoring and evaluating national measures to

achieve the EU target, with the authority to sanction members who breach these measures. Essentially, the EU framework exemplifies the dynamism in adapting to changes and global trends in renewable energy development and energy transition, and how these are addressed through legislation. Chapter Five further suggests that ECOWAS could be equally dynamic as discussed in Chapter Four. For example, the ECOWAS framework might establish supranational institutions to manage its renewable energy sector, and implement, monitor, and enforce mechanisms to align and harmonise its legal framework.

6.3 Research Key Findings

The main findings of this research are as follows:

- The ECOWAS integration aligns more closely with an intergovernmental arrangement. The research findings reveal that it is inadequate in promoting renewable energy and energy transition at both the regional and national levels.

- The ECOWAS integration did not establish a supranational institution. This research finds that supranational institutions are more likely to support and promote the use and development of renewable energy and energy transition at both regional and national levels, as exemplified in the EU's renewable energy legal framework.

- This research found that the colonial linkages and decolonisation associated with ECOWAS are responsible for the weakness of democratic principles within the organisation and the reluctance of its member states to cede even minimal sovereignty.

- Member states of ECOWAS possess a profound affinity for their sovereignty, a consequence of colonial legacies that has subsequently led to a decrease in regional integration efforts in favour of renewable energy and energy transition.

- This research found that the current renewable energy and energy transition legal framework of ECOWAS is non-binding and features weak and

limited evaluation, monitoring, implementation, and sanction mechanisms.

6.4 Suggestions for Future Research

- **The Implementation Gap: From Regional Aspiration to National Reality**

Research Focus

A comparative case study analysis of how two or three ECOWAS member states, for example, Nigeria, Ghana, and Cabo Verde, have transposed and implemented key regional frameworks, such as the ECOWAS Renewable Energy Policy (EREP) and the ECOWAS Energy Efficiency Policy (EEEP), into their national laws and projects.

Key Research Questions

What are the specific administrative, financial, and political bottlenecks at the national level? How do national priorities (e.g., fossil fuel exploitation in Nigeria, energy access in Niger) create tensions with regional renewable energy goals? What measurable differences exist between policy on paper and outcomes on the ground?

Importance

This would move critique beyond the regional policy text to the pragmatic challenges of harmonisation, offering lessons for more effective vertical integration.

- **Institutional Efficacy and Conflict: The Role of ECREEE in a Crowded Field**

Research Focus

An in-depth dive into the institutional capacity, funding, and operational autonomy of the ECOWAS Centre for Renewable Energy and Energy Efficiency (ECREEE). Examine its coordination (or competition) with other regional bodies (e.g., WAPP, ERERA), national agencies, and international partners.

Key Research Questions

Does ECREEE have sufficient mandate and resources to drive the regional agenda? How does it navigate the political economies of its member states? Are there any duplications or synergies with initiatives from the African Union or international financial institutions?

Importance

It would provide a critical assessment of the key implementing institution, focusing on governance and inter-institutional dynamics that are crucial to success.

- **Justice and Socioeconomics: A "Just Transition" Lens for West Africa**

Research Focus

An analysis of ECOWAS' renewable energy framework through the lenses of energy justice and just transition. Investigate the social inclusion, gender equity (e.g., ECOWAS Policy for Gender Mainstreaming in Energy Access), and economic distribution aspects of the energy transition.

Key Research Questions

Who benefits from current renewable energy projects—urban or rural populations, local communities, or international investors? How do the policies address potential job losses in the fossil fuel sector? Are there mechanisms for community ownership and benefit-sharing in large-scale solar or wind projects?

Relevance

It would shift the focus from technical and legal aspects to human-centred outcomes, ensuring the critique addresses equity and sustainable development holistically.

6.5 Conclusion

In conclusion, the development and advancement of renewable energy, along with the energy transition, are in high demand worldwide. They are recognised as solutions for reducing dependence on fossil fuels, lowering greenhouse gas emissions, and preventing climate catastrophes, thereby supporting sustainable

development. Accordingly, the need for collective efforts towards the energy transition and a sustainable energy future cannot be overstated. As a result, this research finds that regional integration arrangements could facilitate the growth of renewable energy and the energy transition, benefiting both the Global North and South. However, within such arrangements, contracting countries must be willing to cooperate and cede sovereignty where necessary to achieve a shared goal. As this research demonstrates, renewable energy development requires finance, expertise, and technological innovation, which may be challenging for a single country to achieve on its own. Therefore, the argument here is that a collective effort is essential, and addressing energy issues in the ECOWAS sub-region extends beyond individual national interests. Consequently, supranational institutions could be established to oversee energy matters, ensuring equality, upholding the rule of law, and promoting justice.

Furthermore, the detailed analysis in Chapters Two, Four, and Five shows that legal frameworks for regional integration can enhance renewable energy development and facilitate the energy transition at both national and regional levels. Additionally, following the examination of the EU's approach to meeting citizens' energy needs and promoting renewable energy sources, it is evident that an adapted and strengthened legal framework could promote renewable energy and the energy transition, particularly in light of the above findings. Therefore, ECOWAS' strategy towards renewable energy development and the energy transition, when aligned with the lessons identified in this research, could meet global demands and the Treaty mandate, including ensuring energy sufficiency to eliminate energy poverty and foster social and economic well-being for the Community's citizens.

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