

TRANSPARENT AND PARTICIPATIVE NECPS!



**Findings from the first year of the
NECP implementation process**

Justice and Environment, March 2022

Introduction

As one of the key elements of the European Green Deal, the **European Climate Law** aims at reaching climate neutrality by 2050. It sets the intermediate target of reducing net greenhouse gas emissions by at least 55% by 2030, compared to 1990 levels. This framework poses a great challenge for the EU and its Member States. The Climate Law includes measures to keep track of progress and adjust the actions accordingly, based on existing systems such as the energy union governance system for Member States' **Integrated national energy and climate plans (NECPs)**. Also, other EU instruments, such as the Recovery and Resilience Facility (RRF) are targeted to contribute to the EU climate goals.

The governance rules¹ underline the **importance of effective public participation** and regional cooperation in the development and implementation of these NECPs, ensuring that the views of citizens and businesses as well as regional and local authorities are taken into account.

It is important to enhance that all EU Member States are parties to the Aarhus Convention adopted in 1998, which establishes a number of rights of the public with regard to decision-making on environment matters.

Important tools of the **strong monitoring and transparency processes** are the national bi-annual implementation reports. Based on the governance rules, Member States will update and revise their NECPs for the first time in 2023 (drafts) and 2024 (final versions).² Consequently, the last year, 2021 was not affected by formal revision, but it was the first year in NECP implementation process.

In **2018**, Justice and Environment (J&E) was involved in the drafting processes of different NECPs, supported national-level stakeholders and NGOs with an Energy Union Governance Guidance and collected information from 10 Member States on the current preparation phase of NECPs and published the results within a [Legal Analysis on the Energy Union Governance](#).

In **2019**, J&E compiled a questionnaire covering the 9 EU countries **Austria, Bulgaria, Croatia, Estonia, Hungary, Romania, Slovakia, Slovenia and Spain** concerning the planning process of the first draft NECPs focusing on transparency and public participation on national level. Findings and recommendations are available in the J&E position paper [Transparent and participative NECPs! - Recommendations for the NECP preparation process \(December 2019\)](#)

¹ Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, OJ 2018/328, 1.

² An EU-wide assessment of National Energy and Climate Plans Driving forward the green transition and promoting economic recovery through integrated energy and climate planning <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1600339518571&uri=COM:2020:564:FIN> (accessed on 09.03.2022)

In 2020, J&E continued its monitoring work on NECPs. The second questionnaire - as follow-up of the previous one of 2019 - was aiming to reveal potential changes, best practices regarding transparency and public participation in the finalisation processes on national level (between June 2019 and January 2020). Our findings and recommendations are available on our website: [Transparent and participative NECPs! - Recommendations for the NECP implementation process \(February 2021\)](#).

Despite the fact, that the first progress reports are due in 2023 J&E decided to carry on NECP monitoring in 2021.

This paper aims to follow up on our results from the previous years and **provide feedback to national decision-making bodies** for a better implementation of the Energy Union Governance Regulation as well as the implementation and revision of NECPs and preparation of additional climate relevant strategies. Future planning processes will provide the opportunity to build on lessons learnt from NECP preparation procedures.



National implementation of the NECPs in 2021 – lessons learnt

J&E focused solely on the following two main issues of the NECP implementation process:

- transparency of progress towards meeting the climate targets and
- establishment and operation of multilevel climate and energy dialogue.

Based on the answers from the involved Member States it can be concluded that both transparency and the intensity of the public consultations and involvement varies from country to country, but in general they were assessed as very poor to average. The average overall score is 2 (poor) in a 1 to 5 rating scale.

Transparency of progress

The present picture in the assessed Member States shows a lack of transparency in the NECP implementation process. The outcomes of our research show the following:

- Regularly updated information is usually not available, except for the final NECPs; since the adoption of the final plans there has not been any additional information published.
- Only in two countries (in Austria and Estonia) of the 8 covered by our research there are reports and information about the progress towards meeting the climate targets.

Public Participation - multilevel climate and energy dialogue

The Energy Union Governance Regulation (Articles 9-11) places certain requirements regarding transparency and public participation in NECP processes. The instruments which have the potential to enhance transparency and improve public participation are not designated concretely as they belong to the competence of each Member State's. In frame of the multilevel climate and energy dialogue³ local authorities, civil society organisations, the business community, investors and other relevant stakeholders, and the general public are able to engage actively and discuss the different scenarios envisaged for energy and climate policies.

³ Art. 11 of Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, OJ 2018/328, 1.

This includes the long term, and review progress. If a Member State already has a structure, which serves the same purpose, it fulfils the governance requirements.

Insights regarding multilevel climate and energy dialogue can be concluded as follows.

- In five of the assessed eight countries there are no such platforms to engage different stakeholders. They did not take effective measures to completely fulfil the cited requirement.
- In two countries there are different platforms for climate policy discussions, but key elements of the public participation requirements are missing, e.g., the general public is not able to participate, or the results of the discussions are not taken into account.
- Only Spain can be mentioned as a positive example: based on our results this country is committed to involve the general public in the climate policy-making.

Recommendations

In order to increase ongoing public involvement and transparency regarding the NECP implementation, the following points must be considered.

Justice & Environment recommends to

- ✓ take an active role in information-sharing in addition to the efforts undertaken by the European Commission. This could at a minimum level include adding designated pages to their websites with key data on the strategy preparation as well adaption (and implementation) process with timelines, including strategic environmental assessment procedures;
- ✓ provide proper and full information on the NECP implementation/ strategy preparation process;
- ✓ enter into to cooperation with citizens, NGOs and other stakeholders in these matters; e.g. following the example of Spain to involve the general public;
- ✓ establish and update multilevel climate and energy dialogue;
- ✓ promote cooperation between national, regional and local level energy and climate actors and their initiatives in finding correspondence.

The following recommendations are particularly important for the **NECP revision process**. As well as the **preparation of other climate strategies**.

Justice & Environment recommends to

- ✓ make efforts to reach out to the affected stakeholders and environmental organizations in order to raise their awareness of the NECP revision /other strategy preparation process as well as participation opportunities.
- ✓ carry out Strategic Environmental Assessment in an early phase of the NECP revision process: Thorough public consultations in frame of SEA on national/regional level should be carried out (e.g. stakeholder workshops, online/written consultations etc.) so the public can raise comments and concerns on the respective projects/issues in their early phase, when all options are still open;
- ✓ monitor compliance of the NECP process with the Energy Union Governance
- ✓ put in place early and effective public participation procedures in the NECP revision process or when preparing climate strategies in order to reach meaningful and fruitful cooperation;
- ✓ make available a summary of stakeholders' contribution, if and how it was considered and/or integrated in the NECP or climate strategy;

Annex

SUMMARY OF QUESTIONNAIRES
on
public participation and transparency in the IMPLEMENTATION phase of NECPs
on national level
in 2021

28th February 2022

Context

In 2019 Justice & Environment compiled questionnaire covering in 9 EU countries (Austria, Bulgaria, Croatia, Estonia, Hungary, Romania, Slovakia, Slovenia and Spain) concerning the planning process of the first draft NECP on national level. Findings and recommendations are available in our position paper [Transparent and participative NECPs! - Recommendations for the NECP preparation process \(December 2019\)](#)

In 2020 Justice & Environment continued its monitoring work on NECPs. The second questionnaire - as follow-up of the previous one - was aiming to reveal potential changes, best practices regarding transparency and public participation in finalization processes of the plans on national level (between June 2019 and January 2020). Apart from Slovakia, the same countries as in 2019 were involved in our comparative study. Our findings and recommendations are available on our website: [Transparent and participative NECPs! - Recommendations for the NECP implementation process \(February 2021\)](#).

In 2021 we compiled again a questionnaire covered the same countries as in the previous year to monitor the first year of the implementation process. Our continuous focus has been transparency and public participation on national level, as the governance rules underline the importance of effective public participation and regional cooperation in the development and implementation of these NECPs, ensuring that the views of citizens and businesses as well as regional and local authorities are taken into account.

This is a summary of the questionnaires covering 8 EU countries: Austria, Bulgaria, Croatia, Estonia, Hungary, Romania, Slovenia and Spain.

Transparency of the implementation process

1. Is there an informative and regularly updated NECP website in your country? Is relevant information regarding NECP and its implementation available?

Currently there are not any informative and regularly updated NECP websites in the involved countries, where information on the implementation of NECPs is available. In most countries, NECP, other climate relevant strategies and SEA reports have been published on the website or sub-site of the competent ministry, but since the adoption of the final NECP there has not been any additional information published.

2. Does the national government or its body responsible for NECP implementation publish information on the progress towards achieving national climate targets?

In Austria, information and annual reports regarding progress towards meeting the climate targets are published by the Federal Environmental Agency (*Umweltbundesamt*) as well as the Court of Auditors (*Rechnungshof*). In Estonia, the information about the progress is at the Ministry of Environment website. In the other six countries there is not any information on the progress available.

Multilevel climate and energy dialogue

3. Has there been a multilevel climate and energy dialogue established in your country? Are the civil organizations and the general public able to actively participate in climate policy discussions and review progress?

At the time of completing the questionnaire, there are no such platforms to engage different stakeholders in Austria, Bulgaria, Hungary, Romania, and Slovenia. In Croatia, a new Committee has been established in 2018, which is comprised solely of representatives of different Ministries. Two technical task force bodies belong to it - for policies and measures for low-carbon development and policy and measures for climate change adaptation. These bodies have been established but are rather inactive. One meeting of the Adaptation task force was held so far with invitations and documents being sent only two days prior to the meeting. In Estonia, there is a separate website where all the information is gathered for the public. As a platform it enables NGOs to participate in the climate policy discussions and regular public consultations are arranged. According to J&E expert, the problem of not taking into account the opinions of the public might yet remain. Spain already counted with a structure to undertake the multilevel climate and energy dialogue, the National Climate Council. This body, however, lacks the presence of the investors community and it is not fully clear whether this body can be considered in line with the requirements of the Energy Union Governance Regulation. In

general, the MITECO (Ministry for Ecological Transition and Demographic Challenge) opens public participation procedures for all new pieces of legislation and regulations in the field of environment, including climate change and energy transition. In addition, based on the Climate Change and Energy Transition Act, the Citizens Assembly on Climate Change was established by Ministerial Order TED/1086/2021, of 29 September, establishing the composition, organization and functioning of the Assembly. It is comprised by 100 citizens randomly selected and provided with the support of an independent expert groups.

4. Has the ministry or its competent body reviewed and/or adapted NECP targets in consideration of the new EU goal of 55%?

In 2021 and there were - or still are - different planning and/or review processes ongoing in Austria, Estonia, Hungary, and Spain focusing on renewal of the national climate targets, but there have not been any NECP amendments carried out in the involved Member States. In Hungary the Government adopted its decree the National Clean Development Strategy, which refers to the new EU goal to increase the climate target to at least 55% net emissions by 2030. In Spain, the Climate Change and Energy Transition Act established an emissions reduction goal of 23% by 2030, which is declaring its consistency with the increased ambition set by the European Council of December 2020.

5. How do you score transparency of the NECP implementation process in your country in a 1 to 5 rating scale? (1 very poor, 2 poor, 3 average, 4 good, 5 very good)

In Bulgaria, Hungary, Romania, and Slovenia the transparency was rated very poor (1), in Austria, Croatia and Spain the score is poor (2), and Estonia reached average (3).

Challenging NECP

6. Are there any ongoing legal procedures to challenge, review an insufficient NECP in your country? Has any environmental NGO made legal steps towards enforcement NECP targets?

Except for Romania there are not any pending legal procedures to review NECP. (In Austria and Estonia, different climate mitigation processes, renewals of the climate targets are ongoing and the NGOs are waiting for the results of these procedures.) J&E Romania has filed a preliminary complaint against the Government Decision for the NECP adoption (GD 1076/2021) and against the NECP requesting the revocation of these documents, the reopening of the procedures for the elaboration and preparation of the NECP, and the adoption of a new GD for its approval. The arguments relate, inter alia, to breaches of the legal provisions on the competence to draw up the NECP, breach of the obligation to carry out the environmental impact assessment procedure, breach of the provisions of the Energy Union

Government Regulation, breach of the provisions on public consultation and participation, as well as other provisions related to the Paris Agreement.

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