

TRANSPARENT AND PARTICIPATIVE NECPS



Improving public participation in NECP

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Introduction

The Governance Regulation rules¹ stress the importance of effective public participation² and regional cooperation³ in the development of NECPs.

Justice & Environment prepared an overview of the state of public participation in **Integrated national energy and climate plans (NECPs)** in 10 Member States in February of 2024, including data from 2019/2020⁴ and 2023.⁵ The document serves as analytical basis for this position paper. The recommendations for improvements for member states were to:

- carry out Strategic Environmental Assessment in the NECP revision process: Thorough public consultations in the 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 revision process with the Energy Union Governance;
- 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;
- make available a summary of stakeholders' contribution, if and how it was considered and/or integrated in the NECP or climate strategy.

This paper builds on updated findings and proposes amendments to the Governance Regulation rules concerning public participation and cooperation in NECP adaptation processes.

The most pressing issues hindering effective public participation in NECP processes, as shown in the following paragraphs, are the general and non-specific nature of articles concerning public participation and consultations in the governance rules.

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 Articles 10 and 11 of Regulation 2018/1999.

³ Article 12 of Regulation 2018/1999.

⁴https://justiceandenvironment.org/wp-content/uploads/2023/10/BR-4-5-1_JE-recommndations-NECP-process_December-2019-1.pdf (28.6.2024).

⁵ https://justiceandenvironment.org/wp-content/uploads/2024/02/RIR-OJ-monthly-2024_January.pdf (28.6.2024).

Public Consultations

Insights regarding public consultations, which were updated for this document, were gathered from **Austria, Bulgaria, Croatia, Estonia, Hungary, Romania, Slovakia, Slovenia and Spain** and can be concluded as follows.

- In six countries there was an opportunity to participate in the drafting process, but **except for Austria, Estonia and Slovenia, it was not ensured in the early phase of drafting**, moreover, it was reported as a formal one, aiming solely to fulfil EU legislative requirements, and not substantive dialogue. However, Austria withdrew the NECP and is currently the only member state without a submitted NECP draft for the commentary of the European Commission with expected draft by end of August 2024.
- In most countries **it remained unclear how the results of the discussions were taken or not taken into account**. Core issues and content raised by NGOs in the consultation process were not integrated into the draft. **Only in Estonia** a complete table of the proposals and replies was publicly published.
- Even though there was earlier public participation in the process of adopting the NECP, there was no formal public consultation process in Croatia as of yet for an updated NECP, but it is announced for summer 2024 without exact date.
- Except for one Member State, multilevel climate and energy dialogue was not established, in seven of the assessed eight countries there are no such platforms to engage different stakeholders. Only Austria can be mentioned as a positive example, based on our results this country is committed to involving the general public in the climate policy-making, but the drafting process stopped as written in the first paragraph.
- The draft updated NECP has not yet gone through Strategic Environmental Assessment (SEA) procedure in any countries, in Slovenia the public participation in SEA ended on the 23rd of June 2024.

As seen above, the public participation process widely varies between member states, while good practices remain scarce and are fully dependent on the respective governments of each member state.

Amendment proposals

In line with the Aarhus Convention, **Article 10** should be amended as follows:

- an **early-stage public participation procedure should be made obligatory** for every member state, within the term ‘well before its adaptation’. The article should include a clear definition of the term ‘early stage’, which should chronologically be **during or before preparing scientific and expert basis for the adaptation of NECP**;
- member states should have **an obligation to publicly respond to the comments given by the public in the public consultation period** and state the reasons for taking comments into account or not taking them into account;
- the second paragraph should require of the member states an adequate and effective manner of accomplishing public consultation, besides setting reasonable timeframes;
- furthermore, the second paragraph should include a new obligation of the EC to prepare guidelines for informing the public, including examples of best practices across member states so far.

Article 11 should be amended as follows:

- member states must have **an obligation to report to the EC on establishing and engaging in multilevel climate and energy dialogue** at the same time as forwarding draft NECPs to the EC. EC should prepare guidelines for establishing and engaging in multilevel dialogue, with examples of good practices.

Both articles should **promote innovative methods and collaborations between member states** in addressing the public in the NECP drafting. EC should prepare **a compilation of best practices** and prepare further, enhanced guidance on public participation.

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