



Multilevel Governance in Climate Laws : the case of Spain



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EVENT:

CLIMATE RIGHTS AS A NEW WAY TO RESPOND
TO THE CLIMATE CRISIS

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Background

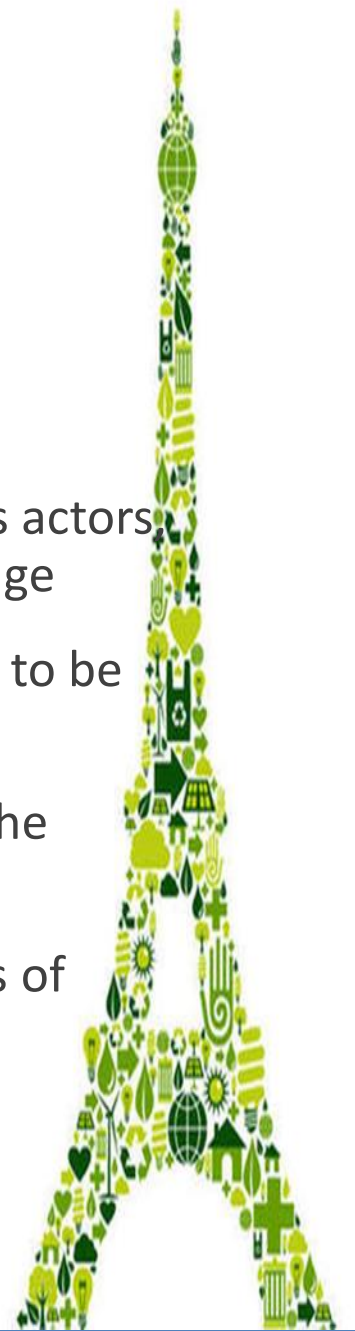
Preamble of the Paris Agreement

Recognizing the importance of the engagements of **all levels of government** and various actors in accordance with respective national legislations of Parties, in addressing climate change

International MEAs, including the international legal regime to fight climate change, has to be implemented at the national level

NDCs bottom-up approach- NECPs under the EU (EU) 2018/1999 on the Governance of the Energy Union

The 5 dimensions of the NECPs entails competences distributed amongst different levels of government



The case of Spain: Climate commitments

Updated Climate commitments (2030)								
GHG reduction (mitigation)			Renewable energy			Energy efficiency		
EU								
European Climate Law			Directive (UE) 2023/2413 (RED III) – RePowerEU			Directive (UE) 2023/1791		
At least, 55% vs previous 40%			45% (42,5% + additional supplemental 2,5%) vs previous 32%			38% final energy (40,6% primary consumption) vs previous 32,5% primary and final primaria y final		
España								
LCCTE	NECP 2021-2030	NECP 2023-2030	LCCTE	NECP 2021-2030	NECP 2023-2030	LCCTE	NECP 2021-2030	NECP 2023-2030
At least, 23% (1990)	23% (1990) Effort sharing: 39% ETS: 61%	32% (1990) (+9) Effort sharing: 43% ETS: 70%	At least , 42% from the final energy generation (74% electricity)	Equal to LCCTE	48% from the final consumption (+6) (81%electricity)	At least, 39,5%	41,7% final energy 39,5% primary energy	44% final energy (+2,3)

Competences distribution

SUBJECT MATTER	STATE COMPETENCE	AACC (Regions) COMPETENCE	MUNICIPAL COMPETENCE
<p>ENERGY <i>It is relevant the provisions in the Laws on the Energy sector (LES) and the law on Oil and Gas .</i></p>	<p>Exclusive competence:</p> <ul style="list-style-type: none"> • Authorization of energy production facilities when its use affect other AC or the transportation of energy is out of the territorial scope of one AC (149.1.22^a CE). • Legal basis of the energy regime (149.1.25^a CE). • Basis and general coordination of the economic activity. (149.1.13^a CE). • Establishing the basis of the energy system regime(3.1 LSE). • Establishment of payments(3.3 LSE). • Regulation of the organization and functioning of the energy market (3.9 LSE). 	<p>They can assume exclusive competence in relation to storage, production, distribution, and transport facilities confined to their territory and which do not affect another autonomous community (Article 148.2 of the Spanish Constitution in relation to Article 149.3 of the Spanish Constitution).Shared competencies with the State assumed by several Autonomous Communities (Articles 50 of the Statute of Autonomy (SA) of Valencia, 133 of the SA of Catalonia, 49 of the SA of Andalusia).</p>	<p>"Municipalities can approve ordinances for the use of renewable energy in buildings and facilities (Supreme Court Ruling 2339/2015, of May 22). The Supreme Court bases its decision on competences such as environmental protection (25.2.b of the Law Regulating the Bases of Local Regimes (LRBRL)) and urban planning (25.2.a LRBRL). Any other powers delegated to them by the State or the Autonomous Communities (27.1 LRBRL)."</p>

Distribution of powers

<p>ENVIRONMENT</p>	<p>"Basic legislation on environmental protection is the exclusive competence of the State, without prejudice to the competence of the Autonomous Communities to establish additional protective regulations (Article 149.1.22 of the Spanish Constitution). The State must limit itself to the basics when regulating: 'what is basic, as it pertains to the State's competence in this area, mainly serves the function of setting minimum standards' (Supreme Court Ruling 102/1995)."</p>	<p>The Autonomous Communities have competencies for the management and development in matters of environmental protection (Article 148.1.9 of the Spanish Constitution). They also have competencies for legislative development and implementation regarding additional environmental protection regulations (Organic Law 9/2002, on the transfer of powers to the Autonomous Communities</p>	<p>Competence in urban environmental matters (25.2.b of the Law Regulating the Bases of Local Regimes (LRBRL)). Obligation to provide urban environmental services in municipalities with more than 50,000 inhabitants (26.1.d LRBRL). Any powers delegated to them by the State or the Autonomous Communities (27.1 LRBRL)</p>
<p>LAND PLANNING</p>	<p>The State lacks competence in urban planning in the strict sense; however, numerous state competencies affect the matter: land ownership regime (Article 149.1.1 of the Spanish Constitution), civil legislation (Article 149.1.4 CE), or coordination of economic activity (Article 149.1.13 CE, Constitutional Court Ruling 143/2017, of December 14, 2017)</p>	<p>They have exclusive competencies in land planning, urban planning, and housing (Article 148.1.3 of the Spanish Constitution, Constitutional Court Ruling 143/2017, of December 14, 2017)</p>	<p>Competencies in urban planning: planning, management, execution, and urban discipline. Protection and management of historical heritage. Promotion and management of public housing with criteria of financial sustainability. Conservation and rehabilitation of buildings (25.2.a LRBRL). Any powers delegated to them by the State or the Autonomous Communities (27.1 LRBRL)</p>

Distribution of powers

<p>TRANSPORTATION</p>	<p>The State has exclusive competence in: Merchant shipping, ports and airports of general interest, and control, transit, and air transport (Article 149.1.20 of the Spanish Constitution).</p> <p>Railways and land transport that cross the territory of more than one Autonomous Community; general regime of communications; traffic and circulation of motor vehicles (149.1.20^a SC).</p>	<p>The Autonomous Communities can assume competencies in:</p> <p>Railways and roads whose routes are entirely developed within the territory of the Autonomous Community, and in the same terms, transport carried out by these means or by cable (Article 148.1.5 of the Spanish Constitution).</p> <p>Shelter ports, sports ports and airports, and in general, those that do not carry out commercial activities (Article 148.1.6 of the Spanish Constitution)</p>	<p>They will exercise their own competencies in traffic, vehicle parking, and mobility, as well as urban collective transport (25.2.g LRBRL).</p> <p>Municipalities with more than 50,000 inhabitants are required to provide public transport services (26.1.d LRBRL).</p> <p>Any powers delegated to them by the State or the Autonomous Communities (27.1 LRBRL)</p>
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Distribución competencial

<p>AGRICULTURE AND FARMING</p>	<p>The scope of competencies in agriculture and livestock is determined by the basic state competence for general economic regulation (Article 149.1.13 of the Spanish Constitution).</p> <p>According to constitutional doctrine, this competence encompasses both the state regulations that establish guidelines and global criteria for the regulation of a specific sector (agriculture and livestock) and the provisions for specific actions or measures necessary to achieve the proposed objectives within the regulation of that sector</p>	<p>The Autonomous Communities can assume competencies (even with exclusive character) in matters of agriculture and livestock as long as they are exercised in accordance with the state competence for general economic regulation (Article 148.7 of the Spanish Constitution in relation to Article 149.1.13).</p> <p>In this regard, the Autonomous Communities can adopt, within the framework of general guidelines for the regulation of economic activity, all those measures that are not contrary but rather complementary or concurrent, and that are aimed at improving the structures of agriculture and livestock without negatively distorting the general regulatory authority that belongs to the State (Constitutional Court Ruling 158/2011, of October 19)</p>	<p>The LRBRL does not recognize competencies in these matters</p>
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AACC Climate laws

CCAA	Leyes de cambio climático y/o transición energética aprobadas	Entrada en vigor
Cataluña	Ley 16/2017 , de 1 de agosto, de cambio climático	23.08.2017
Andalucía	Ley 8/2018 , de 8 de octubre, de medidas frente al cambio climático y para la transición hacia un nuevo modelo energético en Andalucía	7.02.2019
Islas Baleares	Ley 10/2019 , de 22 de febrero, de cambio climático y transición energética	2.05.2019
Navarra	Ley 4/2022 , de 22 de marzo, de Cambio Climático y Transición Energética	2.04.2022
C. Valenciana	Ley 6/2022 , de 5 de diciembre, del Cambio Climático y la Transición Ecológica de la Comunitat Valenciana	10.12.2022
Islas Canarias	Ley 6/2022 de 27 de diciembre, de cambio climático y transición energética de Canarias ²²	31.03.2023
País Vasco	Ley 1/2024 , de 8 febrero, de Transición Energética y Cambio Climático	22.02.2024

NECPs at the AC level

Article 38 of the LCCTE:

Interadministrative Cooperation in Matters related to Climate Change and Energy.

As of December 31, 2021, the Autonomous Communities must report to the Climate Change Policy Coordination Commission on all their current energy and climate plans. These plans may consist of a specific document that includes both the measures adopted and the measures they foresee adopting in matters of climate change and energy transition, consistent with the objectives of this law.“

Most of the AACCC have adopted plans and or strategies, many include climate and energy targets

Monitoring and follow-up it is mainly carried out through GHG inventories, Energy stocktakes as well as indicators, periodical assessments

Conclusions

The role of regions (as well as of municipalities) to fight Climate change cannot be underestimated

Without their action, the objectives of the Paris Agreement will not be attained

Think [and commit] globally, act locally