

TRANSPARENT AND PARTICIPATIVE NECPS !



**Recommendations for the NECP
implementation process**

Justice and Environment, February 2021

Introduction

The EU's 2030 climate and energy framework sets out the targets, rules and governance system in relation to greenhouse gas emission reductions, energy efficiency and renewables. **Integrated national energy and climate plans (NECPs)** are crucial elements of the 2030 climate and energy framework, bringing energy and climate targets into one strategy as well as helping to plan and report on progress. 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 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.² The Aarhus Convention Compliance Committee issued, on 28 May 2019, an [Advice to Member States](#) on the public consultation process of the final NECPs.³

The NECPs are not a one off exercise, but an iterative process. The annual reporting of greenhouse gas emissions inventories and projections as well as the national bi-annual implementation reports will be important tools for monitoring progress. Based on these elements, Member States will update and revise their NECPs in 2023 (drafts) and 2024 (final versions).⁴

In addition to the NECPs all Member States are developing further climate relevant strategies such as national long-term strategies and Recovery and Resilience Plans.

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 Guidance⁵ and collected information from 10 Member States on the current preparation phase of NECPs.⁶

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 See also the elaborations of the European Commission's website, https://ec.europa.eu/energy/topics/energy-strategy/national-energy-climate-plans_en (accessed on 25.01.2021)

³ https://unece.org/fileadmin/DAM/env/pp/compliance/Requests_from_the_MOP/ACCC-M-2017-3_European_Union/Advice_to_Party_concerned/M3_EU_advice_to_the_Party_concerned_28.05.2019_final.pdf (accessed on 25.01.2021)

⁴ 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 25.01.2021)

⁵ http://www.justiceandenvironment.org/fileadmin/user_upload/Publications/2019/Energy_Union_Governance.pdf

⁶ http://www.justiceandenvironment.org/fileadmin/user_upload/Publications/2019/BR_4_5_1_J_E_recommdatio ns_NECP_process_December_2019_web.pdf.

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!](#)

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).

This paper aims to follow up on our results and give recommendations 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 in the years ahead. Future planning processes will provide the opportunity to build on lessons learnt from NECP preparation procedures.

National implementation of the Energy Union Governance Regulation regarding preparation of NECPs – lessons learnt

The Energy Union Governance Regulation recognises that transparency, as well as early and effective involvement of the public is essential for integrated national energy and climate plans. Member States targeted in our research have only partly met the requirements of the Energy Union Governance Regulation (Articles 9 (4) and 10). 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 the public consultations were assessed as poor to more inclusive. The average overall score is 2 (poor) in a 1 to 5 rating scale.

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;
- ✓ make efforts to reach out to the affected stakeholders and environmental organizations in order to raise their awareness of the NECP/other strategy preparation process as well as participation opportunities.

Transparency

The present picture in the assessed Member States shows an inadequate and incomplete implementation of transparency requirements in the NECP preparation process. The outcomes of our research show the following:

- Only in two countries (in Slovenia and Spain) of the 8 covered by our research there are special separate national websites dedicated to NECP.
- Regularly updated information is usually not available, only the draft and final NECPs, and the consultation period were published on the website of the competent ministry.
- In none of the countries there was any public participation plan with a time schedule prepared or published so far. There is lack of available information on the relevant procedural steps of NECP preparation process on national level.

Justice & Environment recommends to

- ✓ 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;
- ✓ monitor compliance of the NECP process with the Energy Union Governance and SEA Directive.

Public Participation

As pointed out above, the Energy Union Governance Regulation (Articles 9-11) places certain requirements regarding transparency and public participation in NECP drafting process. 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. The assessed countries did not take effective measures to completely fulfil the enlisted requirements. Insights regarding public consultations can be concluded as follows.

- None of the countries managed to organise the public consultation process at early phase.
- Within the limited and rather late consultation process the countries reported the consultation was open for all stakeholders. However it was not very proactive but rather formal.
- In several cases the shared draft was incomplete and/ or missing entire chapters.
- Mostly big, national environmental NGOs submitted proposals (e.g. national umbrella organisations, or offices of WWF or FoE), but the results of the public consultations (esp. with NGOs) are poorly or mostly not at all reflected in the NECPs.
- Only in Slovenia and Spain, the NECP has undergone a Strategic Environmental Assessment (SEA)⁷. In Bulgaria and Hungary the SEA procedure is still ongoing.

⁷ Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment, OJ L 2001/197, 30; in so far as Directive 2001/42/EC is applicable, consultations undertaken on the draft in accordance with that Directive shall be deemed to satisfy the obligations to consult the public under this Regulation.'

Justice & Environment recommends to

- ✓ put in place early and effective public participation procedures in the NECP process 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;
- ✓ establish and update multilevel climate and energy dialogue;
- ✓ carry out Strategic Environmental Assessment in an early phase of the NECP preparation/implementation 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;
- ✓ promote cooperation between national, regional and local level energy and climate actors and their initiatives in finding correspondence.

Annex

Summary of the results of the QUESTIONNAIRE

on

public participation and transparency in the preparation process of NECPs on national level

1 December 2020

Context

In 2019, Justice & Environment 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 NECP on national level. Findings and recommendations are available in our position paper [Transparent and participative NECPs!](#)

The European Commission presented in June 2019 a detailed assessment of the cumulative impact of all the draft plans in all the different areas targeted. This included country-specific recommendations by the Commission, suggesting ways in which these draft plans could be revised to make potential improvements and efficiency gains in order to achieve our common objectives. Taking account of the recommendations Member States were required to finalise their NECPs by the start of 2020.

In 2020 Justice & Environment continued its monitoring work on NECPs. The second questionnaire - as follow-up of the previous one of 2019 - was aiming to reveal potential changes as well as best practices regarding transparency and public participation in the finalisation processes on national level (between June 2019 and January 2020).

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

Basic information of the preparation process

1. Date of the submission of the final NECPs

Between December 2019 and April 2020. In Romania and Spain it happened during the extraordinary legal order of the COVID-19 pandemic.

2. National website of the NECP

Only in two countries, i.e. in Slovenia and Spain, there are national websites.

3. Description of public consultation and involvement of stakeholders, especially civil groups in the NECP

The intensity of the public consultations and involvement varies from country to country in the member states. In Estonia the stakeholders were relatively actively involved in the finalization process of the NECP and more open consultations on the plan were organised. In Spain there was also a long and participative consultation process, but the Spanish government submitted the final NECP to the European Commission before the termination of the consultation period. In some countries (Austria, Croatia) at the time of public consultations relevant information was still not available. In Hungary only the invited NGOs could participate, there was not an open wide-ranged consultation with the public. In Bulgaria there was not any substantial and meaningful public consultation and involvement of stakeholders, such as civil groups, in the NECP process.

Transparency of the finalization process

4. Did the national government or its body responsible for elaboration of the plan publish the draft versions on its website? Has there existed an informative and regularly updated website?

In most cases there neither a special website for NECP or communication strategy nor an active access to information process. Regularly updated information is usually not available, but only the draft and final NECPs and the consultation period were published on the website of the competent ministry. In Estonia stakeholders who registered in the beginning of the process their e-mail to get updates were directly informed. As another positive exception Slovenia can be mentioned, where from the beginning of the process all draft versions were published, as well as all phases of the SEA procedure and workshops during the preparation of the NECP.

Public consultation and involvement

5. Did national environmental NGOs participate in the finalization process?

Mostly big, national environmental NGOs submitted proposals (e.g. national umbrella organizations, or offices of WWF or FoE). However, it is not clear whether and how these statements were or will be taken into account since the process was not transparent and the tables with comments by NGOs and other stakeholders are not publicly accessible. In most of the countries environmental NGOs were involved in the process by public consultations. In Estonia NGOs were also invited to participate and give presentations at different forums.

6. Has there been any results of public consultations (especially with civil organisations) integrated in the final NECP?

Overall, the results of the public consultations (esp. with NGOs) are poorly reflected in the NECPs. They usually describe only the manner of involvement, but not the outcome of the public consultations. In Estonia, Hungary, and Romania some results of the public consultations were integrated in the final NECP, but there have not been any noticeable substantial changes based on the proposals from the NGOs. Not even in Slovenia and Spain, where the NECP went through a participative SEA procedure, it can be concluded that the outcome of these consultation procedures indeed influenced the content of NECP.

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

The average score is poor (2). Exceptions are Estonia and Slovenia, which reached average (3).

SEA of NECP

8. Has the NECP gone through SEA?

A participative SEA was carried out in Slovenia and Spain. SEA is ongoing, but its results are not (yet) available in Bulgaria and Hungary.

There has not been an SEA in Austria, Croatia, Estonia and Romania.

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