

NECP Reporting:

The missing voice of the public



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NECP Reporting

The missing voice of the public

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Introduction

Public participation: the obligation, the benefits

National Energy and Climate Plans (NECPs) set out targets, policies, and measures that will enable Member States' to reach the 2030 EU renewable targets. Public participation in the design and implementation of NECPs is essential for effective climate and energy governance. It creates better policy, improves public support and strengthens democratic legitimacy. The energy transition and the fight against climate change in Member States affects all Europeans and their ways of life. A just transition must, therefore, meet the highest standards of democratic decision-making to allow for the development of trusted, equitable, and transparent climate policies.

Both EU¹ and international law require Member States to guarantee the public's right to well-informed and effective participation in the preparation of both the draft and final updated NECPs. The Compliance Committee of the Aarhus Convention - to which the EU is a Party - has repeatedly demanded that the EU² give clear instructions to Member States for the implementation of public participation and adapt the way it evaluates NECPs. However, the drafting process of the NECPs in 2019 displayed a blatant disregard for democratic decision-making in almost all Member States.

EU Member States are required to undertake public consultations during the drafting of their revised NECPs (Article 10, Governance Regulation hereinafter "GovReg"). These public consultations must be conducted in line with the Aarhus Convention requirements.³ The GovReg also requires Member States to summarise the public's views in both draft and final plans. In 2019, the Aarhus Compliance Committee advised Member States on the NECPs' public consultation process clarifying that, in order to comply with Article 7, 6(4) and 6(8) of the Aarhus Convention, Member States are required to "provide for early and effective public participation when all options are open and to take due account of the outcomes of the public participation."⁴ The timeliness of these processes is essential to ensure the outcomes of public participation can be taken into account, and the process is not merely a box-ticking or [citizenwashing](#) exercise.

For more information on the minimum public participation requirements in the establishment of the NECP updates, consult the EEB's checklist [Ten steps for public participation in National Energy and Climate Plans](#).

¹ Treaty on European Union, article 11; 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; Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality, article 10.

² Decision V/9g on compliance by the European Union (1 July 2014) and Decision VII/8f concerning compliance by the European Union with its obligations under the Convention (20 October 2020).

³ See for a summary of the legal obligations for public participation during the updating of the NECPs the legal briefing available [here](#).

⁴ Advice by the Aarhus Convention Compliance Committee to the European Union concerning the implementation of request ACCC/M/2017/3, [available here](#).

The GovReg also provides for the holding of Multilevel Climate and Energy Dialogues (MCEDs) under Article 11. These multi-stakeholder dialogues aim to discuss the different scenarios and options for energy and climate policies, including for the long term, and the achievement by the EU of the climate neutrality objective set out in Article 2 of the GovReg. The GovReg recommends that the NECPs are discussed in these MECDs processes and identifies the participants in the dialogues as local authorities, civil society organisations, the business community, investors and other relevant stakeholders and the general public. The Regulation is not detailed or prescriptive about how these dialogues should be carried out, and whether Member States should use them as a vehicle for public consultation on the NECPs.

The NECP progress reports and NECP updates

From the 15th March 2023, and every two years after that, each Member State must publish a progress report, which will allow the European Commission to supervise the EU's overall progress towards these targets, including updates on policies and measures, and projections. According to the GovReg (Article 17(7)), the Member States must make their progress reports available to the public. The Commission is then obliged to provide an assessment of progress based on these reports by 31st of October of the same year (Article 29). From 2023 onwards, the Commission can also provide country-specific recommendations based on the national NECP progress reports every two years (Article 32).


The progress reports are an important tool for monitoring progress with climate and energy targets, and it is based on these reports that the Member States will update and revise their NECPs in 2023 (drafts) and 2024 (final versions).

By the 30th of June 2023, Member States should have submitted a draft update of the NECPs to the European Commission or justify that the current plan remains valid. The objective of this update is to account for "*significant changing circumstances*" (Recital 34 GovReg). Article 14(3) GovReg establishes that each Member State "*shall modify its national objective, target or contribution with regard to any of the quantified Union objectives, targets or contributions set out in point (a)(1) of Article 4 in order to reflect an increased ambition as compared to that set out in its latest notified integrated national energy and climate plan*" and to mitigate any adverse environmental impacts revealed by the progress reports (article 14(4)).

To guide participation in the updating of the NECPs, it was crucial that the public had access to the progress reports. However, many Member States failed to meet the deadline for the submission of the progress reports. Several progress reports have still not been published in full, either by the Commission or by the Member States themselves.

Without transparency, it is impossible for citizens to fully participate in the conversations about the critical national policy choices that will be made during the transition to net zero. Recent advice⁵ from the European Scientific Advisory Board on climate change highlighted the importance of inclusive public participation and decision-making to ensure equity and justice and to catalyse wider innovation and capacity development. Transparent NECPs mean that even if governments don't yet have all the answers the necessary problem solving can progress and these vital conversations with society can

⁵ European Scientific Advisory Board on Climate Change, Scientific advice for the determination of an EU-wide 2040 climate target and a greenhouse gas budget for 2030–2050, June 2023, available [here](#).



be honest and well-informed. Recent initiatives such as the European Climate Neutrality Observatory⁶ are placing an emphasis on the need for transparency.

NECP progress reports: What to look for

The Implementing Regulation and Annex XXIII

Commission Implementing Regulation (EU) 2022/2299⁷ (hereafter “Implementing Regulation”) lays down the rules for the application of the GovReg as regards the structure, format, technical details and process for the integrated national energy and climate progress reports. The Implementing Regulation is supplemented by Reporting Guidelines issued by the Commission to guide Member States in fulfilling their reporting obligations.

While the GovReg provides that “each MS shall ensure that the public is given early and effective opportunities to participate in the preparation of the NECP” (Article 10 GovReg), the Implementing Regulation does not demand any reporting on Article 10 GovReg, as that article relates to the drafting and not the implementation of NECPs. Public consultations should, however, be reported on in the draft NECP updates but essentially aren’t, following a lack of clarity and prescriptiveness in reporting obligations. Perhaps as a result of this confusing framework, the revision process of the NECPs displayed a worrying lack of involvement of the public. On the other hand, Article 11 GovReg on MECDs does give rise to implementation duties, as explained below.

Reporting of public participation elements

According to Article 17(2) b) GovReg, Member States must submit in the framework of the progress reports “information on the progress in establishing” the MECD. Article 18 of the Implementing Regulation provides that Member States shall report this information, ‘*in accordance with the formats set out in Annex XXIII to this Regulation*’. The reporting template in Annex XXIII provides that Member States report on ‘*details on multilevel climate and energy dialogue*’ and if applicable on ‘*progress in establishing the multilevel climate and energy dialogue*’.

⁶ Visit their website [here](#).

⁷ Commission Implementing Regulation (EU) 2022/2299 of 15 November 2022 laying down rules for the application of Regulation (EU) 2018/1999 of the European Parliament and of the Council as regards the structure, format, technical details and process for the integrated national energy and climate progress reports, available [here](#).

Public availability of the progress reports

The GovReg provides for elements to be reported on in the biennial progress reports.⁸ Each element is subject to a reporting template in the Implementing Regulation - as illustrated above for the MECDs - and reporting information relating to the same topic are gathered in 'Dataflows'. Some dataflows are to be reported on the Commission platform Reportnet 3, whereas some others must be reported on ReportENER. Access to the latter platform is restricted for the general public. Reportnet 3 is accessible, but a few Member States restricted their submission from the public's view. It is also worth noting that - as mentioned above - on 5 July 2023, there were still some Member States that had not submitted their progress reports and four did not specifically submit their Annex XXIII.⁹ According to the state of play dated from 4 September 2023 and published on the dedicated website¹⁰ all Member States have now submitted their Annex XIII, only a few of them are however publicly available on this website.

As regards reporting on MECDs, the relevant Reporting Guidelines¹¹ state that the progress report must be submitted in ReportENER. This means that the progress reports would stay hidden on this inaccessible platform. The European Commission however communicated¹² that the progress reports will be made publicly available following completion of a quality assurance and control process conducted by the Commission services. This process should have been completed by 30 June 2023, but as of early August 2023, only 13 country progress reports, and not even in full, were publicly available on the dedicated platform.¹³

The present study will analyse the reporting data available on that platform as of 11th September 2023 and the progress reports published directly by Member States on their own website. The progress reports for the following 17 Member States have therefore been assessed: Austria, Cyprus, Denmark, Estonia¹⁴, Finland, Greece, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania, Slovakia¹⁵, Slovenia, Spain and Sweden.

For an analysis of the contents and formats of the MECDs presented in these progress reports, consult the Ecologic Institute's paper published in September 2023, [Progress on the implementation of national Multilevel Climate and Energy Dialogues: Assessing Member States' own reporting](#).

⁸ See, *inter alia*, the list in article 17 (2) GovReg.

⁹ See the document "SoP For CIRCABC – 5 July 2023", in the dedicated CIRCABC folder, available [here](#).

¹⁰ See the document "SoP for CIRCABC – 1 September 2023, in the dedicated CIRCABC folder, available [here](#).

¹¹ Reporting Guidelines Dataflow 21 to 23: Regional cooperation, dialogue and recommendations under Regulation (EU) 2018/1999 on Governance of the Energy Union and Climate Action Implementing Regulation 2022/2299 Annex 21 to 23, available [here](#).

¹² See on the dedicated [website](#).

¹³ See the '2023 integrated energy and climate reports (NECPR)' folder on CIRCABC, available [here](#).

¹⁴ The Annex XXIII for Estonia was published on the Estonian government website, available [here](#).

¹⁵ The Annex XXIII for Slovakia was published on the Slovakian government website, available [here](#).

Main trends & highlights from the Annex XXIII progress reports

Trends

Some Member States only explained their national internal ministerial processes and the cooperation between the ministries rather than engagement with stakeholders and the general public. In doing so, they misinterpreted the concept of multilevel dialogue, which involves a not only horizontal dimension but also a vertical one.¹⁶

- **Examples:** Cyprus, Greece.

It is clear that some Member States have misunderstood what MCEDs are or should be. These Member States reported on separate initiatives that involved sectoral stakeholders on specific topics but never put in place a common framework for these sectoral representatives to discuss together.

- **Denmark** presents a green forum for the business community, a citizen assembly initiative, and a youth climate council, without mentioning the links between these entities.

In that same vein, some Member States explained who is responsible for establishing NECP progress reports and NECP updates. They also described the process of updating the current NECPs and the national or sub-national authorities involved.

- **Examples:** Greece, Portugal

Some Member states made vague statements on meeting stakeholders without defining who participates in these discussions. Article 11 of the GovReg provides however a list of possible stakeholders to involve in such dialogues, as mentioned above.

- **Lithuania** mentioned “representatives of business, science, NGOs” and “social partners”. Denmark mentioned “key stakeholders”.
- **Malta** mentioned “stakeholders from both the public and private sectors”.
- **Latvia** mentioned “ministries, competent authorities, companies and stakeholders.”

¹⁶ NECPlatform, “Multi-Level Governance in EU Energy and Climate Policy – First findings from NECPlatform”, available [here](#).

Some Member States have used Annex XXIII to describe the public consultations they carried out as required under article 10 of the GovReg and not art 11 for the first iteration of NECPs and the current update. This signifies a need to provide clarity on the interlinkages between the two processes for reporting on that in the NECP drafting process.

- **Slovenia** gave a comprehensive overview of the establishment process of the first NECP. It listed each participation process conducted mentioning equally stakeholder workshops and public consultations.
- **Portugal** also referred to a public consultation opened last March in the framework of the updating process.
- **Luxembourg** gave more detail on how the MECD is involved in the updating process – which is most welcomed – than in the implementation of the NECP.

Many processes described are stakeholder dialogues and not engaging the “general public” as specified in art 11. of the GovReg.

- **Cyprus** mentioned meetings from governmental working groups with “related stakeholders both from the private and public sector.”
- **Latvia** provided information on the creation of experts groups that exclude the general public.

Not one country reported on how the existing dialogue intervenes in the decision-making process. This would entail explaining at length when the dialogue occurs in the decision-making timeline and how due account of its outcome is taken in the decision.

- **Lithuania** explained how working groups have been informed and discussed but the explanation stops there.
- **Austria** explained that its variation of the MECD “consults” on the Austrian climate policy without detailing what this consultation entails.

Member States do not know how to differentiate between the two columns of the progress report template. Many Member States have left the second column empty or reiterated what they wrote in the first column but with added detail.

- **Examples** : Finland, Estonia, Netherlands, Portugal, Slovakia, Sweden, etc.

Best practices in reporting

Lithuania

The composition of the Committee serving as the MECD structure is provided along with its role.

"The National Committee [...] consists of experts from government, academia and non-governmental organizations (NGOs) competent to solve strategic and other important tasks related to the formation and implementation of the national policy of climate change management. The purpose of the Committee was to coordinate the formulation and implementation of the national policy on climate change management, and it has an advisory role."

Slovenia

Even if Slovenia reported on elements that do not concern MECDs, it gave a clear overview of the public participation mechanisms including timeline.

Spain

Spain listed all the initiatives that could be interpreted as public participation processes. In the second column on progress, it gave more information on the composition, the role and involvement of each participation structure. Although this report does not account for the establishment of a MECD, the level of detail it presents should inspire all other reports.

Country spotlights

Luxembourg

The different missions of the structure serving as MECD are listed, allowing for an in-depth look into its planned work programme.

"The Climate Platform's missions are to: act as a forum for discussion on climate issues; propose research and studies in all areas relating to the climate; establish links with comparable committees in the Member States of the European Union; participate in the preparation and updating of the integrated national energy and climate plan (NECP); to issue opinions, at the request of the Government in Council, on national climate policy, in particular on the implementation of international commitments, or to study on its own initiative the appropriateness of new measures or changes to existing measures."

Malta

Malta describes an awareness raising campaign that can be used as a platform for the MECDs without explaining its functioning and members. It does not look like a dialogue but more like a one-sided communication.

"ClimateOn campaign - a national awareness raising campaign on climate change and a platform for continuous dialogue amongst stakeholders."

Netherlands

The Netherlands describes a national climate platform that resembles a multilevel stakeholder dialogue. It however goes on explaining that its approach to general public participation is based on awareness building campaign and communication towards citizens. It recognises the need for "local ownership" though increased knowledge at local level. Such meaningful involvement of citizens can only happen if one goes past this one-sided, and sometimes patronising, communication.

"[The] national government wants to stimulate the sustainable movement from the bottom up by showing as many examples as possible of sustainable behavior, both from individuals and from companies and governments; this also puts more emphasis on the collectivity of the task. The network approach - which initially focused primarily on working with so called climate partners to facilitate sustainable choice as default - now focuses more on connecting all parties that play a role in the transition: co-governments and civil society organizations."

Finland

Training is always welcome to empower informed "stakeholders" in the dialogues, this does however not amount to giving them a voice and a place at the table of discussion. Furthermore, journalists, as important as their role as watchdogs of democracy is, are not among the targeted audience of the MECDs.

"Nominated by the Finnish Ministry of the Environment for the first time at the end of 2011, the interdisciplinary and independent Climate Change Panel of researchers and academicians aims to enhance communication between science and politics in issues related to climate change [...]. The Finnish Climate Change Panel has actively participated in the public debate by releasing statements, organising discussions, developing consumer tools to support climate-friendly decision making [...], and interacting with the media, decision makers and other stakeholders. Many of the Government organisations provide training for various stakeholders, both independently and through the Steering Group for Climate Communications. For example, the Finnish Meteorological Institute has organised annual training about climate change for journalists since 2006."

Summary

Reading all of the publicly available elements of Member States' reports on their efforts to carry out MECDs takes about twice as long as reading this paper. The analysis of 14 available reports results in the impression that Member States do not what to report on. Even if they might have put in place satisfactory dialogues, the reporting framework does not allow them to present these processes and their results in an intelligible way.

The issue with the reporting on article 11 of the GovReg is twofold:

Firstly, the level of detail delivered upon in the reporting is across the board low. Many Member States did not bother reporting on MECDS.

- **Examples:** Slovakia, Sweden.

Secondly, the coherence and comparability is almost non-existent. Member States have interpreted the obligations to carry out MECDs in very different ways and they have interpreted their obligations to report on those to the public similarly incoherently. Even the handful of countries which have carried out commendable dialogues have reported on them unsatisfactorily.

Recommendations

The reporting delivered by Member States on their obligations to implement Multilevel Energy and Climate Dialogues is inconsistent, partially irrelevant, and in part off topic. If future reports are to be of added value both to the Commission and the general public, the reporting obligations and the reporting template need to be changed. The EEB recommends that:

1. Article 18 of the Implementing Regulation be amended to include meaningful reporting.
 - The current text obliges Member States to report on the progress made in establishing MECDs. This obligation should be transformed into an obligation to report on the iterations of the national dialogue and on how the opinions voiced, in the dialogues, i.e. its outcomes, were taken into account in energy and climate related decision-making.
 - Carrying out a public dialogue is not a democratic exercise in and of itself. A public dialogue derives its democratic purpose from how it interacts with decision-making on policy.
2. The template in Annex XXIII of the Implementing Regulation be accordingly altered to increase the quality of the reporting without creating undue administrative complexity and burden (see table below).
 - Most of the reporting in the NECP process is done via numbers (for projections, objectives, progress) and technical aspects of energy and climate policy. Public Dialogues are less easily quantified and comparable between different Member States. The template of Annex XXIII should be specified to include information on 1) which exact

process is supposed to be the national MCED 2) the number of dialogues held in a given period 3) how the opinions voiced were taken into account in the decision-making.

3. The Governance Regulation be amended to strengthen and specify the public participation obligations.
 - Article 10 and 11 of the GovReg are currently not linked. One details the public participation requirements in drafting NECPs and the other gives a vague obligation to hold public dialogues throughout the implementation of the NECPs. A more coherent link between these two forms of public participation obligations should be created so that it is clear that the public must be involved both in formulating and in implementing the plans. In that regard, the optional discussion on NECPs' establishment in the MECDs from article 11 GovReg should become mandatory. On the other hand, article 10 should be broadened to include all forms of public participation involving the general public in both the preparation and implementation/monitoring of the NECPs.
 - Separately and in order to address the ongoing non-compliance of the EU with the Aarhus Convention,¹⁷ the text of article 10 must be amended to reflect the EU's international obligations better.

¹⁷ Decision VII/8f of the Meeting of the Parties on compliance by the European Union with its obligations under the Convention, available [here](#).

ANNEX XXIII

REPORTING ON MULTILEVEL CLIMATE AND ENERGY DIALOGUE REFERRED TO IN ARTICLE 11 OF REGULATION (EU) 2018/1999

Table 1

Progress in establishing multilevel climate and energy dialogue referred to in Article 11 of Regulation (EU) 2018/1999 [\(1\)](#)

| | | |
|---|---|--|
| Name of the national process constituting the multilevel climate and energy dialogue | M | |
| Dates of the iterations of the multilevel climate and energy dialogue | M | |
| Details on how the outcomes of the multilevel climate and energy dialogues were taken into account in decision-making | M | |
| <i>Notes:</i> M = mandatory; M _{iap} = mandatory if applicable | | |



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