

# Public participation and the updating of NECPs: towards more meaningful dialogue and deliberation

**A briefing paper for civil society organisations**

**Graham Smith** Professor of Politics, *Centre for the Study of Democracy, University of Westminster* and Chair of the *Knowledge Network on Climate Assemblies*

[g.smith@westminster.ac.uk](mailto:g.smith@westminster.ac.uk)

## 0. Executive Summary

The current context for public participation in the NECP process is not the most encouraging because most Member States have not fulfilled their participation obligations to date and the time available for organising participatory processes, the lack of transparency on the part of most Member States and the opportunity to affect change in the Plans is limited. While recognising these limitations, this paper proposes a strategy to promote public participation, highlighting a number of advocacy intervention points for civil society organisations (CSOs). It considers the type of participation that CSOs should be arguing for: initiatives that combine both stakeholders and citizens in forms of dialogue and deliberation. An Appendix to the paper provides more detailed background on NECP guidance on public participation and how different forms of participation relate to the policy cycle.

## 1. Introduction

Member States are required to undertake public participation in the drafting of their updated NECPs. The evidence to date is that compliance has been “weak and uneven”<sup>1</sup>. While some Member States have delayed submission of their drafts, it is highly unlikely that this is to enable robust public participation. This is disappointing because the most effective moments for public participation in the development of plans and policies are “upstream” – at an early point in the policy development cycle when problems are being defined, options identified and assessed. At the point when a draft is published, many decisions about the merits or otherwise of policy options have been decided. The danger is that participation at this point is simply to rubber stamp decisions already made. We have to be careful not to call for participation when that participation is likely to have no material effect and allows governments to claim that they have fulfilled their commitments.

### Why participation?

Public participation in climate governance is valuable for a number of reasons:

1. Public participation can lead to more robust and ambitious climate policy that reflects the interests, needs and attitudes of citizens.
2. Public participation can challenge embedded social and climate inequalities.
3. Public participation can help break political deadlocks and increase confidence and willingness of political leaders to take climate action.
4. Public participation can increase the legitimacy and public acceptance of action on climate as transitions continue to impact people more directly.
5. Public participation can promote a more climate aware, politically active and confident citizenry.

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<sup>1</sup> CAN-EU & WWF. 2023. Public Participation in National Energy and Climate Plans: Evidence of Weak and Uneven Compliance in Member States. <https://1point5.caneurope.org/wp-content/uploads/2023/04/REPORT-Public-participation-in-National-Energy-and-Climate-Plans.pdf>

## 2. An NECP participation strategy: key advocacy intervention points

Section 4.3 of the *NECP Guidance for Member States for Updated NECPs 2021-2030*<sup>2</sup> makes it clear that Member States are expected to organise fair and transparent public participation that feeds into the updating of the NECPs. While the guidance is somewhat ambiguous (see Appendix 1), the failure of most Member States to facilitate participation at an earlier stage of the updating process provides an advocacy space for CSOs. We are in a strong position to take advantage of the available time before NECPs are finalised to put pressure on the European Commission and Member States to develop robust and meaningful participation exercises around the remaining NECP process. This advocacy could take the form of:

1. Putting pressure on Member States that have delayed their drafts to establish participation processes if reasonable time is available and political will is present to take engagement seriously.
2. Targeting the European Commission while it is considering the drafts to require Member States to undertake robust participation exercises before finalising their NECPs. The Commission is expected to provide progress reports to Member States by the end of 2023.
3. Combining this targeting of the Commission with highlighting the risk of strategic litigation against Member States that have failed to advance expected levels and quality of participation during their NECP revisions.
4. Putting pressure on Member States to undertake meaningful participation before final version of NECP is submitted on 30 July 2024, including highlighting the risk of strategic litigation if this is not forthcoming.
5. Putting pressure on Member States and the European Commission to include robust forms of participation *within* NECPs as a core element of energy and climate governance moving forward.
6. Setting a marker for future participation processes.

## 3. What type of participation should we be arguing for?

### 3.a. Essential components

It is important not to simply make the case for public participation without giving details of the type of participation that is expected.

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<sup>2</sup> [https://energy.ec.europa.eu/publications/guidance-ms-updated-necps-2021-2030\\_en](https://energy.ec.europa.eu/publications/guidance-ms-updated-necps-2021-2030_en)

At EU level, “public” in public participation tends to refer to two very different forms of participation: stakeholder and citizen<sup>3</sup>. Sometimes documents have only one of these forms of participation in mind when they use the term “public”. Equally we have seen at European level the use of the term “citizen participation” when it is only accredited NGOs that can participate. It can all be very confusing.

In making the case for public participation, we need to distinguish between participation involving stakeholders and participation involving citizens. Both are valuable but differences between them need to be recognised.

**Stakeholder participation** involves the engagement of organised social and economic groups. These range from business and industrial bodies through to unions and NGOs. Some stakeholder groups can legitimately represent groups of citizens with shared characteristics and/or interests, although many make this claim illegitimately.

**Citizen participation** involves the direct engagement of everyday people as individuals in a personal (rather than professional) capacity. Diverse background and life experiences can lead to new ideas, knowledge and perspectives. Engaging citizens from underrepresented and politically marginalised groups – in particular those most vulnerable to climate impacts – is often a key focus.

Both types of public participation are valuable in the development of robust NECPs (and more broadly in climate governance). Both can lead to better quality and more legitimate policy through rebalancing established dynamics of power within political decision making.

Stakeholder participation involving civil society organisations (CSOs) such as climate NGOs helps to balance out and challenge the entrenched power and influence of interests such as fossil fuel industries and lobbies. It increases the transparency of decision-making, ensures the knowledge and experience of CSOs is given weight and increases the legitimacy of decision making.

Citizen participation is critical because while claims are made by stakeholders to represent public interests, this cannot be taken as given. Energy and climate policies will increasingly have material impact on the lives of everyday people. By bringing their lived experience and knowledge into policy making, citizen participation ensures policy makers reflect on the interests and needs of different parts of the population, particularly those from climate vulnerable communities. This can increase the public legitimacy and acceptance of policy.

While the NECP guidance continually uses the term “the public”, it generally refers to stakeholders: “local authorities, civil society organisations, social partners, the sectoral business community, investors and other stakeholders” (p.16). Only at one point does it mention “individuals”. The Aarhus Convention and Governance Regulation are more specific about involving citizens within their definitions of the term “public”.

Given the different capacities and resources of stakeholders and citizens, the forms of participation to engage them will differ. Simply putting draft NECP documents on consultation portal is unacceptable.

Too often policy makers’ preference is to include as many people and organisations as possible in participation exercises. This is a laudable ambition but it typically means an open process with little or no checks on who is participating. This often leads to a skewed process with those with strong political interests and motivations engaging. A deeper, more high quality and inclusive participation process tends to be better than one that is broad. This requires careful design.

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<sup>3</sup> Usage is not consistent. In many other circumstances outside the EU and other transnational institutions, public participation equates to *citizen* participation only – the direct involvement of everyday people. Stakeholder participation is taken to be a different form of participation.

**Essential components** of a demand from CSOs for an effective public participation strategy by national governments should include the following:

1. Ensure **government commitment** is in place with high level ownership of the participation process and collaboration across government to include those departments and agencies that are responsible for relevant policies. This includes commitment to provide necessary resources for a viable and robust participation process (including independent facilitation) and procedures for considering and integrating inputs and publicly explaining decisions on which inputs been adopted, modified or rejected (as required under NECP guidance, section 4.3.).
2. **Stakeholder dialogues** should focus around (1) identifying and considering the most controversial elements of the NECP; (2) engaging relevant stakeholders that are likely to be the most impacted according to distributional analysis of impacts that should be part of draft NECPs (as required under NECP guidance, pp.6 & 20). Identified stakeholders may need resources to support their engagement.
3. Citizen participation should emulate “best practice” (NECP guidance, section 4.3) which, following OECD guidance,<sup>4</sup> should be based on principles of **inclusive deliberation** where diverse groups citizens are facilitated to learn, exchange ideas and perspectives and develop collective recommendations. Citizen participation should focus on those issues identified as most controversial through the stakeholder dialogues and on mitigating potential distributional effects. Selection of participation methods should be driven by the nature of the issues to be tackled – e.g., may include citizens’ assemblies or juries (recruitment by democratic lottery) and/or targeted deliberative exercises with vulnerable communities likely to face most significant social and economic impacts.
4. Large-scale participation exercises are best organised by **specialised independent intermediary bodies** with expertise in designing and delivering dialogue and deliberation processes. Governments rarely have the requisite expertise and experience and are not always trusted by stakeholders and citizens. CSOs should consider putting themselves forward to be part of the governance arrangements for the participation process to oversee design and delivery and monitor government response.

### 3.b. Design options

In designing public participation around the NECP process, key design questions need to be considered, including:

- What sort of input is required?
- What is the commitment of the government to respond?
- What questions need to be answered and who gets to decide the agenda?
- What resources and time are available?
- Who should be engaged, on what issues and in what ways?
- What existing democratic infrastructure is in place that can be utilised?
- Who is organising the process and what are the governance structures?
- How are different inputs to be collated?

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<sup>4</sup> OECD. 2020. Innovative Citizen Participation and New Democratic Institutions. [https://www.oecd-ilibrary.org/governance/innovative-citizen-participation-and-new-democratic-institutions\\_339306da-en](https://www.oecd-ilibrary.org/governance/innovative-citizen-participation-and-new-democratic-institutions_339306da-en)

It is difficult to design a “standard” participation process for a number of reasons.

First, the design of participatory processes should be guided by the type of input this is required and the questions that are being asked.

Second, design will be affected by the level of resources and time that are available. Budgets and timescales will affect what is possible.

Third, existing democratic infrastructure will vary across Member States. For example, some Member States will have established multi-level dialogues on energy and climate dialogues that could be a vehicle for further stakeholder participation – and citizen participation if that is an element of their design. Equally, some Member States will have independent agencies that can be tasked with carrying out aspects of the dialogue or deliberative engagement. It is important to not reinvent the wheel or crowd out well-functioning and well-established participatory structures. But equally, some existing infrastructure may be moribund and new democratic infrastructure may need to be developed.

Appendix 2 gives further detail of the different approaches to participation that could be employed.

### 3.c. Who organises participation?

Two challenges face governments that wish to undertake participation exercises. First, they may not have the relevant technical capacity and experience. It is not simple to organise and coordinate dialogues and deliberative processes. Second, governments are often not trusted by significant stakeholders and the broader public to organise a fair and balanced process within which they are open about the most controversial issues within the NECP. Some states have established independent expert bodies to organise large scale participation exercise – e.g., Commission Nationale du Débat Public (CNDP) in France. Equally it is possible for governments to contract independent organisations with the relevant expertise and experience to design and implement participation processes.

It is not advisable for CSOs to offer to organise participatory exercises around the NECPs as they do not have the experience and will be seen as highly partial actors by many other stakeholders and citizens. But CSOs should offer to be part of governance structures that should be created to oversee the participatory process to ensure that it is delivered to the relevant standards.

Good quality participation is not cheap. It should be run independently of government and involve professional facilitation. An indication of a Member State’s commitment is their willingness to *resource* meaningful participation exercises.

### 3.d. Background resources on public participation

A number of CSOs have produced specific guidance and resources on **participation in the NECP process**. These include:

- CAN-EU & WWF. [Public Participation in National Energy and Climate Plans: Evidence of Weak and Uneven Compliance in Member States](#).
- CAN-EU. [Central Eastern European general principles for NECPs](#)
- European Environment Bureau. [Legal obligations for public participation during the updating of the Energy and Climate Plans](#)
- European Environment Bureau. [Ten steps for public participation in National Energy and Climate Plans](#)
- European Environment Bureau. [Mindmap: public participation in NECPs](#)

- European Justice Network Ireland. [Legal obligations for public participation during the 2023 updating of the National Energy and Climate Plans](#)

[Energy Cities](#) has extensive and regularly updated resources on the extent to which **multi-level energy and climate dialogues** have been established in different Member States and beyond<sup>5</sup>, although its particular interest is in ensuring municipalities are present in these processes. In earlier work it highlighted the Stakeholder Roundtables for National Climate Agreement in Netherlands as an example of good practice<sup>6</sup>.

The [Knowledge Network on Climate Assemblies](#) has collated extensive evidence and guidance on how to commission and run a robust **climate assembly or jury process** – one form of deliberative participation. [Democracy R&D](#) is an international network of organisations that develop, design and implement **deliberative processes**, many of which can be engaged to help develop citizen (and in some cases stakeholder) participation.

A number of attempts have been made to collate **different approaches to public participation**. These include [Participedia](#), the [Engage 2020 Action Catalogue](#) and the library of [Methods](#) developed by Involve.

**Online platforms** can support dialogue if carefully designed. Interesting options that are worth exploring include [Polis](#) which originates from Taiwan but is now used widely, [Your Priorities](#) developed by the Citizen Foundation and platforms developed by [CitizenLab](#).

The [Energy Justice Workbook](#) provides practical guidance on how to facilitate participation in a way that serves energy justice.

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<sup>5</sup> <https://energy-cities.eu/project/necplatform-best-practices/>

<sup>6</sup> [https://energy-cities.eu/wp-content/uploads/2019/09/C7.4\\_Report-on-good-practices-in-energy-and-climate-governance\\_ENC.pdf](https://energy-cities.eu/wp-content/uploads/2019/09/C7.4_Report-on-good-practices-in-energy-and-climate-governance_ENC.pdf)

## APPENDIX 1. What does NECP guidance say about public participation?

In Section 4.3 of the *NECP Guidance for Member States for Updated NECPs 2021-2030*<sup>7</sup>, only three paragraphs are dedicated to considering public participation. Aspects of this guidance can be used to build the case for more robust participation of the form proposed in this document.

For example, the guidance is explicit that a “summary of the consultations and of the public’s views or provisional views” is expected within the updated NECPs. The guidance states that not only should this summary be provided but also details of the fairness and transparency of the process: “Member States should explain how the views of the public were considered ahead of submitting the draft and final national plans. Member States are also expected to describe how the process allowed the public to participate transparently and fairly.”

NECP guidance on the format of participation is inconsistent. The guidance refers to multi-level energy and climate dialogues recommended under the Governance Regulation: “Member States are encouraged to strengthen the multilevel dialogue and work with regional and local individuals and groups who can bring forward concrete measures” (ibid).

While it mentions “individuals” as participants in dialogue, the guidance also proposes a basic form of consultation – even though it refers to best practice: “Sound consultation implies that the public should have access to all relevant documents, reports and assumptions at the start of the consultation period. Member States are invited to reflect on best practices, such as setting up the consultation through a dedicated NECP website, which contains all the information” (EC 2022, section 3.2). For reasons already elaborated, this is highly unlikely to be inclusive, deliberative or effective in generating more robust climate policy, addressing climate injustices and building public support and legitimacy.

**The NECP guidance provides CSOs with a strong case for expecting multi-stakeholder dialogues to be in place. They will need to make the case for more deliberative and inclusive forms of citizen participation, although this can be based on the Commission’s expectation that participation is transparent and fair, and on the OECD’s good practice recommendations<sup>8</sup>.**

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<sup>7</sup> [https://energy.ec.europa.eu/publications/guidance-ms-updated-necps-2021-2030\\_en](https://energy.ec.europa.eu/publications/guidance-ms-updated-necps-2021-2030_en)

<sup>8</sup> [https://www.oecd-ilibrary.org/governance/innovative-citizen-participation-and-new-democratic-institutions\\_339306da-en](https://www.oecd-ilibrary.org/governance/innovative-citizen-participation-and-new-democratic-institutions_339306da-en)



## APPENDIX 2. A (slightly) deeper dive into public participation

Because this Briefing is considering public participation at a late stage of the development of updated NECPs, many of the approaches to participation are no longer relevant. For example, the use of ideational digital platforms and in-person summits to crowdsource ideas has much less relevance at this point in time. This Appendix considers public participation more broadly in relation to the development of policy and plans.

### Limitations of most public participation exercises

Most attempts by governments to engage the public fail on two grounds (as can be seen with existing weak participation exercises in the drafting of NECP revisions). The first is the lack of commitment on the part of government. This can be the result of a lack of political will to integrate inputs into decision making, not allowing enough time for participation to take place before decisions are made or not providing the resources necessary to fund a robust process. Too often decisions have already been made and participation is little more than a charade – a “tick box” exercise by government.

The second problem is that even when there is goodwill on the side of government, participation processes are poorly designed. Too often governments place a large draft policy document online and call for submissions to the website. Sometimes a guided survey is provided, but often just open text boxes. This sort of approach only attracts those organisations that have a direct material interest and the resources and capacities to respond to a complex document. Any individuals who respond are generally highly politically motivated or have been organised by an NGO or other organisation to engage – usually with a cut and paste email.

Where governments hold public hearings or similar “town-hall” events, again it is well resourced organisations with a direct interest in the issue or individuals who are highly politically motivated that attend.

We end up with highly skewed input into the policy process.

No wonder many civil servants, politicians, NGOs and the broader public are sceptical of the value of participation when their experience is of poorly designed and implemented processes. We need to help them to think and act more creatively and imaginatively.

### Going beyond standard consultation

The terms “participation” and “consultation” are often used interchangeably. But participation captures a broader range of forms of public engagement.

**Consultation** is one form of public participation where the government asks for responses to a proposal. These tend to be one-to-one: individual respondents provide their views without engaging with other respondents. The government then collates the inputs. These inputs could be made through a digital platform, in-person public hearings, etc.

**Participation** captures a wide range of different types of engagement. In relation to strategic planning and policy, this includes consultation, but also forms of negotiation (seeking out mutual interest), dialogue (sharing of ideas) and deliberation (seeking common good).<sup>9</sup>

Basic forms of consultation typically fail to involve a diversity of citizens and stakeholders in the decision-making process. More structured, inclusive and effective modes of participation exist which can lead to more informed and reflective public input into the development of policy and plans.

**Dialogue** processes facilitate the exchange of information, knowledge and perspectives with the aim of mutual learning and innovation. Dialogue is often used where problems are complex. It can help generate innovative options for dealing with intractable challenges. NECP guidance proposes that Member States strengthen the multi-level energy and climate dialogues that they are expected to have established under Article 11 of the Governance Regulation. Membership of dialogues can be open, invited and/or targeted to ensure that stakeholder groups representing climate vulnerable communities participate. Dialogues typically involve stakeholders, but public dialogues broaden participation to citizens. They tend to be quite small groups where citizens are often selected randomly according to particularly relevant criteria (e.g., vulnerability to particular climate impacts) and engage with relevant stakeholders and scientists to map out possible solutions. Some organisations may need to be resourced to have the capacity to engage. Dialogue is a quality of certain digital platforms that allow both stakeholders and citizens to participate (often asynchronously) in proposing and assessing policy options.

**Deliberative** processes facilitate diverse groups of citizens to learn, deliberate and come to collective recommendations on a policy challenge. Strategies are adopted to reduce inequalities. For example, recruitment by democratic lottery (or sortition) means that the participants reflect the characteristics of the wider society and are not representatives of established interest groups or political parties. Examples include citizens' assemblies and juries that have been used increasingly on climate and energy issues<sup>10</sup>. In Luxembourg a climate assembly was organised to feed citizens' recommendations into the NECP drafting. While it was not the best organised assembly,<sup>11</sup> a number of its recommendations have been integrated into the draft revised NECP. The OECD promotes deliberative processes as best practice for citizen engagement<sup>12</sup>. Deliberative processes tend to involve citizens: stakeholders can find it difficult to be open to changing their position (hence stakeholder dialogue processes are more common).

The table below illustrates some of the processes that are used to achieve meaningful participation at different stages of the policy process, simplified to agenda setting, clarifying policy options and decision making. See Section 3d of the main report for resources that provide more details on each form of participation.

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<sup>9</sup> The term participation has a broader meaning than just participation in policy making. For example, it is also used to capture engagement in, for example, civil society, social movements, workplaces, etc. Our focus in this document is limited to participation in the development of strategic plans and policies.

<sup>10</sup> See the [Knowledge Network on Climate Assemblies \(KNOCA\)](#)

<sup>11</sup> The Luxembourg assembly has been criticised for not fulfilling basic criteria of citizens' assemblies, including transparency. The assembly website does not include any information on the topics covered or the provision of information during the weekend sessions. The advisory committee was not put in place until after the assembly had begun its work. See the recording of the [KNOCA Workshop on Luxembourg's Climate Assembly and its Follow-up](#).

<sup>12</sup> OECD. 2020. Innovative Citizen Participation and New Democratic Institutions. [https://www.oecd-ilibrary.org/governance/innovative-citizen-participation-and-new-democratic-institutions\\_339306da-en](https://www.oecd-ilibrary.org/governance/innovative-citizen-participation-and-new-democratic-institutions_339306da-en)

**Table 1. Applying participatory processes to different aspects of the policy cycle**

Type of process	Agenda-setting	Clarifying policy options	Decision making
<b>Citizens / deliberative</b>	<b>CITIZENS SUMMIT</b> Brings a large, broadly representative group of citizens together over a short period of time to crowdsource ideas	<b>CITIZENS ASSEMBLY CITIZENS JURY</b> 30-150 citizens selected by democratic lottery who are facilitated through learning and deliberation to produce collective recommendations	
<b>Citizens and stakeholders / dialogue</b>	<b>DISTRIBUTED DIALOGUE</b> Stakeholders and citizen groups set up their own events to discuss topics following prompts from organisers		
<b>Stakeholders / dialogue</b>	<b>MULTI-LEVEL DIALOGUE</b> Stakeholders at different levels of governance are brought together by government to explore policy options		
<b>Citizens and stakeholders / deliberation</b>	<b>PUBLIC DIALOGUE</b> Small groups (around 30) of citizens, stakeholders and scientists are facilitated to discuss controversial areas of scientific or technological development		
<b>Citizens / stakeholders / consultation</b>	<b>ONLINE CROWDSOURCING PLATFORM</b> Platform allowing participants to propose and rank solutions to policy problems		
<b>Citizens / stakeholders / asynchronous dialogue</b>		<b>ONLINE DISCUSSION PLATFORMS</b> Platforms that enable participants to propose and assess policy options	

For details of these and other forms of public participation, see the resources in Section 3.d. of the report.

We should push for forms of participation within energy and climate governance that take us beyond basic consultation to include more inclusive and transparent forms of participation based on dialogue and deliberation. Different processes and resources need to be in place to engage stakeholders and citizens, although they can be engaged in ways that are complementary. This includes intentional strategies to invite and include stakeholders and citizens who are most vulnerable to climate impacts but may be unlikely to participate otherwise, because they do not recognise or prioritise it as an issue for them, are unaware of the opportunity to participate or do not have the time, resources or capacity to engage. We should expect transparent follow-up by public authorities where they explain how they have integrated public input, in particular where ideas have been modified or rejected.