

Access to Information and the National Energy and Climate Plans (NECPs) of the European Union Member States

Item 3a Access to Information and the EU's National Energy and Climate Plans (NECPs).

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Aarhus Convention UNECE Taskforce on Access to Information, Geneva, 9th & 10th November 2023.

Summary:

This presentation summarises issues identified in the climate governance architecture of the EU, focussing on access to information in relation to the preparation of the National Energy and Climate Plans (NECPs). These important plans set the trajectory of climate action on the ground at Member State level in every EU country for a ten-year period. However, due to defects in both the legislative and enforcement systems of the EU, the effectiveness of these key governance tools is being reduced at a crucial juncture for EU and global action on emissions.

Access to information is a key element of the governance structures that build trust in solutions, and ensures those solutions are just and effective. Awareness of/engagement in climate information, and capacity building around this also leads to greater public support for climate measures, raising ambition. It is urgent that framework and enforcement weaknesses in the NECPs are identified and resolved in order to ensure a just and truly resilient transition to a net zero future.

This presentation gathers together the findings of three recent NGO reports, the draft updated NECPs available on the EU Commission website, information from national NGOs, as well as information gathered independently by EJNI on issues encountered in relation to the updated National Energy and Climate Plans due to be submitted in draft form on the 30th June 2023, and due in final version on the 30th June 2024.

The key issues in relation to access to information regarding the NECPs are failures in relation to:

1. Failure of many Member States to submit their draft updated NECPs by the deadline of the 30th June 2023.¹ It appears only one Member State met the deadline (Finland).

¹Submission dates according to EU Commission Website: Austria 6th Nov 23, Croatia 4th July 23, Cyprus 7th July 2023, Czech 24th Oct 2023, 3rd July 2023, Estonia 17th Aug 2023, Germany 6th Nov 2023, Greece 6th Nov 2023, Hungary 4th Sept 2023, Italy 24th July 2023, Lithuania 27th July 2023, Luxembourg 24th July 2023, Malta (No Date) September 2023, Netherlands 3rd July 2023, Portugal 13th July 2023, Romania 3rd Nov 2023, Slovakia 6th Sept 2023, Slovenia 13th July 2023, Spain 13th July 2023, Sweden 11th July 2023.

2. Failure of some Member States to provide any draft updated NECP at all (e.g., Belgium, Bulgaria, France, Latvia, Poland, Ireland.²)
3. Failure of State Parties to provide public access to the draft NECPs prior to submission to the EU for assessment and feedback. This hampers meaningful public consultation on these detailed documents and is in breach of Article 10 of the Governance Regulation (e.g., Cyprus, Denmark, Finland, Greece, Italy, Lithuania Portugal, Malta, Spain, the Netherlands, Portugal, and Czech Republic, Romania).
4. Failure to disclose to the public the analytical basis of the NECPs in the drafts, breaching Article Governance Regulation (e.g., Italy).
5. Failure to provide Strategic Environmental Assessment Reports to the public during the consultations on the draft NECPs (e.g., Cyprus, Italy, Lithuania, Sweden, Czechia, Ireland, Austria, Romania).
6. Failure of State Parties to provide sufficient specificity as to how the targets set out in the NECPs are to be achieved. E.g. (e.g., Italy).
7. Failure to disclose in the draft NECPs submitted to the EU Commission the extent of access to information provided to consultees, in breach of Article 10 of the Governance Regulation (e.g., Estonia, Italy, Hungary, Luxembourg, Slovakia).
8. Failure to provide information to the transboundary public, including the assessment of environmental impacts of the proposed plan. (E.g., Austria Cyprus, Czechia, Denmark, Finland, Romania).
9. The failure of the EU Commission to tackle the above breaches of the requirements of the Governance Regulation/SEA Directive/Aarhus Convention.
10. The failure of the EU Commission to put in place a sufficiently robust legislative or other framework to ensure that the public have access to the information they need to be able to understand, analyse or otherwise engage with the NECPs in a meaningful way.

Elements of Good Practice Noted:

11. Slovenia's³ efforts at public consultation can be commended as an example extensive effort to engage with the National public and build climate literacy by breaking down the issues into separate elements, through a series of staged consultations⁴ of increasing complexity and duration, from an initial consultation to gather ideas for the draft update in Autumn 2022, to separate thematic consultations on the details of different elements of the draft. Although the language used in the NECP is unclear at times, it appears that there was no consultation on the complete draft prior to submission.
12. Good practice in the form of dedicated consultation websites for NECP consultation (as suggested by the Commission Guidance on NECPs) can be seen in several countries e.g., Greece, Hungary and Italy.

² See National energy and climate plans (europa.eu) https://commission.europa.eu/energy-climate-change-environment/implementation-eu-countries/energy-and-climate-governance-and-reporting/national-energy-and-climate-plans_en#national-energy-and-climate-plans-2021-2030

³ Slovenian NECP <https://www.energetika-portal.si/dokumenti/strateski-razvojni-dokumenti/nacionalni-energetski-in-podnebni-nacrt-2024/sodelovanje-z-javnostjo/preliminarno-posvetovanje/#c1719>.

⁴ E.g. see <https://www.energetika-portal.si/dokumenti/strateski-razvojni-dokumenti/nacionalni-energetski-in-podnebni-nacrt-2024/sodelovanje-z-javnostjo/preliminarno-posvetovanje/#c1719>.

Background:

The IPCC has made clear across several reports,⁵ most recently the AR6⁶ (Sixth Assessment Synthesis Report, 2023), that we stand at a crucial juncture for the future of human society and the planet. The ever-increasing incidence of disruptive weather events, and simultaneous drastic decline in all biodiversity⁷ and environmental indicators globally show why the EU's European Green Deal described tackling climate change as the defining task of our generation.⁸ The evidence makes it clear that the window for mitigating climate change is rapidly narrowing. The predictions that this would lead to global instability and conflict have come to pass. Our thoughts are with our colleagues, friends and all those affected by conflict. These conflicts in turn accelerate and magnify the climate crisis and are directly linked to governance issues.⁹

The IPCC in their latest reports have also highlighted the crucial importance of effective environmental governance in tackling climate change,¹⁰ and particularly engaging with the diverse publics to develop equitable solutions to facilitate transition and adaptation. Non-inclusive governance was highlighted in the Working Group II Report in 2022 as a maladaptation that was a key driver of ineffective measures to tackle climate change.¹¹

The EU Green Deal initially laid out a strong commitment to environmental governance. A key element of the climate governance framework is set out in the EU's Governance Regulation (2018/1999) as amended¹² by the EU Climate Law.¹³ The Governance Regulation created a system of Member State level climate plans and reporting at 10-year (NECPs) and 30-year (LTSS or Long-Term Strategy) scales, that would be updated regularly. The first draft NECPs were filed in 2018 and finalised in 2019. The first draft update to these plans

⁵ E.g. Intergovernmental Panel on Climate Change (IPCC): Special Report on the impacts of global warming of 1.5°C; Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services: 2019 Global assessment report on biodiversity and ecosystem services; The International Resource Panel: Global Resources Outlook 2019: Natural Resources for the Future We Want; European Environment Agency: the European environment — state and outlook 2020: knowledge for transition to a sustainable Europe. In particular “Working Group II Report 2022” (WGII Report 2022) AR6 Climate Change 2022: Impacts, Adaptation and Vulnerability, IPCC <https://www.ipcc.ch/report/sixth-assessment-report-working-group-ii/>.

⁶ IPCC, 2023: Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, H. Lee and J. Romero (eds.)]. IPCC, Geneva, Switzerland, pp. 35-115, Doi: 10.59327/IPCC/AR6-9789291691647 https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_LongerReport.pdf.

⁷ 2019 Global Assessment Report on Biodiversity and Ecosystem Services, the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) provided the latest scientific evidence on the ongoing worldwide erosion of biodiversity, IPBES (2019): Summary for policymakers of the global assessment report on biodiversity and ecosystem services of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services. S. Díaz, J. Settele, E. S. <https://ipbes.net/global-assessment>.

⁸ The European Green Deal, COM(2019) 640 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2019%3A640%3AFIN>

⁹ WGII Report 2022, 8.4.2 Empirical evidence and scientific studies show linkages between issues of governance, conflicts and high levels of state fragility and systemic human vulnerability (see Figure 8.8; Section 8.5.2; Eklöv and Krampe, 2019; Peters et al., 2019; Mawejje and Finn, 2020

¹⁰ AR6, Section 2 & 4, WGII Report 2022, AR6 Cycle.

¹¹ E.g. see WGII Report AR6 2022, TS.D.3.1, TS.D.4.7, TS.E.4.1 & TS.E.4.2. TS.E.5.2. also, in particular see TS.D.3.1 ‘Maladaptation has been observed across many regions and systems and occurs for many reasons, including inadequate knowledge and short-term, fragmented, single-sector and/or non-inclusive governance planning and implementation (high confidence).’

¹² Consolidated Text: 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, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02018R1999-20210729>.

¹³ Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (‘European Climate Law’).

were due to be filed on the 30th June 2023 this year, with feedback from the EU Commission due in Autumn 2023.

The ineffectiveness of public participation in the initial draft and final NECPs in 2018/2019 was the subject of complaints to the Aarhus Convention Compliance Committee, previously on the NREAPs in Communication ACCC/C/2010/54¹⁴ and on the NECPs in the follow up Decision VII/8f EU.¹⁵ Partly as a result of this Communication, the EU are engaging in a review of the Governance Regulation.¹⁶ Public participation in the latest round of draft updated NECPs remains poor.¹⁷

Here we focus on access to information issues in relation to the preparation of the draft updated and final NECPs 2023. However, it is important to note that it is difficult to separate neatly public participation issues from access to information as the two are integrally linked.

Key Requirements for Access to Information in the Context of the NECPs

The NECPs are supposed to be integrated climate and energy plans that encompass five dimensions of the European Union: Security, solidarity and trust; a fully integrated internal energy market; energy efficiency; climate action, decarbonising the economy; research, innovation and competitiveness.

Under Art 3(2) of the Governance Regulation, when submitting the draft NECP to the EU Commission, it should contain the following:

“... (a) an overview of the process followed for establishing the integrated national energy and climate plan consisting of an executive summary, a description of the public consultation and involvement of stakeholders and their results, and of regional cooperation with other Member States in preparing the plan, as established in Articles 10, 11 and 12 and in point 1 of Section A of Part I of Annex I; ...”

Additionally, under Art 10 of the Governance Regulation the Member States are required to engage in public consultation on the development of the draft. Under the SEA Directive 2001/42/EC are required to carry out a strategic environmental assessment process with public consultation on the environmental assessment.

The Member States are obliged to provide access to information to the public in the process of putting together their draft updated NECPs in the following ways:¹⁸

1. To provide access to the draft NECP for consultation (Art 10 Governance Regulation).
2. To provide access to the strategic environmental assessment report outlining the environmental impacts of the proposed draft NECP and the impacts of alternatives considered (Art 10 Governance Regulation/Art 5/6 SEA Directive).

¹⁴ ACCC/C/2010/54 European Union, https://unece.org/env/pp/cc/accc.c.2010.54_european-union.

¹⁵ Decision VII/8f concerning the European Union <https://unece.org/env/pp/cc/decision-vii8f-concerning-european-union>.

¹⁶ Review Report on the Governance Regulation 2023 https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13799-Energy-Union-and-climate-action-Review-report-on-the-Governance-Regulation_en.

¹⁷ Romain Didi CAN-E, Romain Laguier WWF-EU (April 2023) Public Participation in the NECPs: Evidence of Weak and Uneven Compliance, Together for 1.5 LIFE Funded Research Report <https://1point5.caneurope.org/wp-content/uploads/2023/04/REPORT-Public-participation-in-National-Energy-and-Climate-Plans.pdf>

¹⁸ See Alison Hough & Ciara Brennan (March 2023) EJNI Briefing-Paper Public Participation and the NECP-Revision <https://ejni.net/wp-content/uploads/2023/03/EJNI-Briefing-Paper-Public-Participation-and-the-NECP-Revision.pdf>. Also, the Commission Notice on the Guidance to Member States for the update of the 2021-2030 national energy and climate plans (2022/C 495/02 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX%3A52022XC1229%2802%29&from=EN>).

3. To provide the public with access to the analytical basis underpinning the measures set out in the draft NECP (Art 6 Governance Regulation/Article 7 of the Aarhus Convention).
4. To provide the public with information on monitoring of the previous NECPs.
5. Under Article 6(2) of the Aarhus Convention, information in advance about the public participation process.
6. Additionally, the information required by the SEA Directive 2001/42/EC should be provided to the public. This includes:
 - a. Outline of the plan/programme, its main and relationship with other plans/programmes
 - b. Environmental characteristics of the area.
 - c. Relevant environmental protection objectives under other legislation and instruments, and how they were taken into account in the preparation of the plan.
 - d. Contain information about the likely significant effects on the environment including on issues such as biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural heritage including architectural and archaeological heritage, landscape and the interrelationship between the above factors;
 - e. Outline of the reasonable alternatives, describe them and explain their likely significant effects on the environment, and the reasons they were not chosen.
 - f. The environmental effects described should include secondary, cumulative, synergistic, short, medium and long-term permanent and temporary, positive and negative effects.
 - g. Mitigation measures (envisaged to prevent, reduce and as fully as possible compensate any significant adverse effects on the environment of implementing the plan or programme). - Monitoring measures post-implementation.
 - h. A non-technical summary in plain language so the public can understand the document.
7. The public have a right to be provided with information afterwards about how their contribution was used and what its impact was on the process. This is required under the SEA Directive and also under Art 3(2) of the Governance Regulation Member States must provide a report to the EU Commission with the draft, and that report should outline the public consultation processes undertaken.
8. The NECP is a plan relating to the environment and therefore is subject to the requirements in the applicable to plans in the SEA Directive (envisaged by the reference to this directive in Art 10 of the Governance Regulation), and in Art 7 and Art 6(8) of the Aarhus Convention. This is also required by Art 8 of the SEA Protocol to the Espoo Convention.

The key issues in relation to access to information regarding the NECPs are:

1. Failure of almost all Member States to submit on time. Only Finland appears to have done so. Five countries submitted in the last week.
2. Failure of some Member States to provide any draft updated NECP at all.

At the time of writing 21 Member States have complied with the obligation to provide a draft updated NECP, four of them in the last week. The Member States who have not submitted include Belgium, Bulgaria, France, Latvia, Poland, Ireland.¹⁹

3. Failure of State Parties to provide public access to the draft NECPs prior to submission to the EU for assessment and feedback. This hampers meaningful public consultation on these detailed documents and is in breach of Article 10 of the Governance Regulation. The EU Commission

¹⁹ See National energy and climate plans (europa.eu) https://commission.europa.eu/energy-climate-change-environment/implementation-eu-countries/energy-and-climate-governance-and-reporting/national-energy-and-climate-plans_en#national-energy-and-climate-plans-2021-2030

Guidance Note on the NECPs²⁰ suggests that the best way to provide the public with access to information about the NECPs all the way through the process is through a dedicated website/electronic portal. Member States that have set up such a portal include Italy, Greece and Hungary.

There were failures to provide draft NECPs to the public in advance of submission to the Commission in the preparation of the draft NECPs²¹ in Cyprus, Denmark, Greece, Finland, Italy, Lithuania Portugal, Malta, Spain, the Netherlands, Portugal, Czech Republic, Romania. In other cases, no or unclear information was provided on the public participation and access to information process, so it was difficult to tell (Croatia, Estonia, Austria). In the case of Hungary, a very short version of the draft was made available during the public consultation, but not the complete draft. In Slovakia, the information provided in the NECP did not make it clear whether a draft was provided as part of the consultation process or what exact engagement took place. In Portugal, no draft NECP was made available to consultees²², and was only made public on submission to the EU Commission.

In the case of Spain's NECP, in the preparation of Spain's draft updated NECP, there was consultation with the public.²³ However, the draft updated NECP was not made available to the public before replying to the consultation. The public were presented with only the general topics for response, and not the actual proposed content. If this had been used as a preliminary consultation prior to preparation of the draft and was followed by consultation on the draft prior to submission, then there would not have been an issue with lack of information, however this appears to have been the only consultation. Ireland have not provided any information to the public about their NECP which is not yet submitted to the EU Commission.

In the Czech consultation²⁴ there was no draft NECP provided and the NECP itself states that the consultation on the draft will take place at some point after submission to the EU Commission. In Ireland the relevant Department has stated²⁵ that they do not intend to consult on the draft NECP and will instead consult on the draft after feedback is obtained from the EU Commission.

4. Failure to disclose to the public the analytical basis of the NECPs in the drafts, breaching Article Governance Regulation. E.g., Italy. However detailed analysis of all of the underpinning material provided in all of the submitted NECPs is beyond the scope of this contribution and the case of Italy is highlighted based on the extensive NGO analysis of the Italian NECP.²⁶

²⁰ Commission Notice on the Guidance to Member States for the update of the 2021-2030 national energy and climate plans (2022/C 495/02 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX%3A52022XC1229%2802%29&from=EN>).

²¹ Unless stated otherwise information in this section 2 was from the EEB Briefing: EEB (October 2023) EEB Demands for ECs Assessment of NECPs, <https://eeb.org/wp-content/uploads/2023/10/EEB-demands-for-ECs-assessment-of-NECPs.pdf>

²² Information provided by Ana Muller, Project & Policy Officer, zero.org by email dated 11th September 2023.

²³ Transport & Environment (2023) Spain's NECP; EEB (October 2023) Much Ado About Nothing: An Assessment of Nine Updated Draft National Climate Action and Energy Plans, LIFE Funded Research Report, <https://eeb.org/wp-content/uploads/2023/10/An-assessment-of-9-updated-draft-National-Energy-and-Climate-Plans-NECP-2.pdf>;

²⁴ Czech Draft Updated NECP 2021 2030 (2023) https://commission.europa.eu/system/files/2023-10/Czech%20Draft%20Updated%20NECP%202021%202030_en.pdf; See also the Czech Public Consultation, Vyhodnoceni-verejne-konzultace-k-Vnitrostatnimu-planu-v-oblasti-energetiky-a-klimatu_final.pdf (mpo.cz).

²⁵ Discussions between the relevant Department and NGOs.

²⁶ Transport & Environment (T&E) (October 2023) Italy's new Energy and Climate Plan: facts, figures and recommendations for transport, https://www.transportenvironment.org/wp-content/uploads/2023/10/IT_draft_NECP_assessment.pdf;

ECCO (March 2023) The NECP Update: What prospects for Review?, <https://eccoclimate.org/wp-content/uploads/2023/04/NEPC-What-prospects-for-the-review-ENG.pdf>

5. Failure to provide Strategic Environmental Assessment Reports on the draft NECPs. Italy acknowledged the necessity for SEAR but has yet to complete one. Lithuania²⁷ does not mention SEAR in their NECP. Sweden tries to rely on the SEARs carried out for distinct elements of their report and Czechia²⁸ mentions the relevance of SEA but offers no evidence of having carried out an assessment of environmental impacts of the plan. Cyprus²⁹ did not offer a full draft NECP for consultation or SEA Report at this time but has presented the full draft to the public at a launch event after filing with the Commission and plans to consult on the full draft prior to submission of the final draft. It appears Austria is largely relying on consultations carried out in 2018, and there is no evidence of an SEA Report but the material is unclear. Presumably any country who did not provide a full draft NECP for consultation also did not provide a full draft SEA Report for consultation (as in these cases consultation was usually by way of a short issues paper or questionnaire) e.g., Denmark, Finland, Italy, Portugal, Malta, Spain, the Netherlands, Portugal. Hungary³⁰ states in its NECP it is in the process of preparing an SEA Report for consultation but did not do so prior to submission of the draft.
6. Failure to disclose in the draft NECPs submitted to the EU Commission the extent of access to information/public participation provided to consultees. This was evident in the case of Estonia, Hungary, Italy and Slovakia (unclear – possibly a translation issue). In the case of Luxembourg, they failed to comply with the requirement to demonstrate how the results of the public consultation were taken into account.³¹ In the case of the Czech Republic despite saying they “consulted on the draft” closer examination shows this was a short survey on the previous plan. This would be a good starting point for preparing the update of the NECPs but does not fulfil the Article 10 requirement to consult on the draft updated NECP. In the case of Austria the information is unclear but appears not to indicate compliance with this requirement.
7. Failure to provide information to the transboundary public, including the assessment of environmental impacts of the proposed plan. Many countries engaged at Government level in a transboundary context but offered no draft updated NECP for consultation to their publics, nor did they provide an accompanying SEA Report to those publics. This can be seen in the case of Cyprus³² (discussions with “other Member States”), Czechia³³ (where high-level discussion took place with

²⁷ [LITHUANIA DRAFT UPDATED NECP EN.pdf \(europa.eu\)](https://commission.europa.eu/system/files/2023-10/LITHUANIA_DRAFT_UPDATED_NECP_EN.pdf)

²⁸ https://commission.europa.eu/system/files/2023-10/Czech%20Draft%20Updated%20NECP%202021%202030_en.pdf

²⁹ <https://commission.europa.eu/system/files/2023-07/Cyprus%20Draft%20Updated%20NECP%202021%202030%20%282%29.pdf>

³⁰ Hungary NECP https://commission.europa.eu/system/files/2023-07/DRAFT%20NECP%20update_Finland.pdf

³¹ Transport & Environment (T&E) (October 2023) Spain's new Energy and Climate Plan: facts, figures and recommendations for transport, https://www.transportenvironment.org/wp-content/uploads/2023/10/ES-draft-NECP_TE-assessment.pdf; EEB (October 2023) Much Ado About Nothing: An Assessment of Nine Updated Draft National Climate Action and Energy Plans, LIFE Funded Research Report, <https://eeb.org/wp-content/uploads/2023/10/An-assessment-of-9-updated-draft-National-Energy-and-Climate-Plans-NECP-2.pdf>;

³² Cypriot NECP <https://commission.europa.eu/system/files/2023-07/Cyprus%20Draft%20Updated%20NECP%202021%202030%20%282%29.pdf>

³³ Czech NECP https://commission.europa.eu/system/files/2023-10/Czech%20Draft%20Updated%20NECP%202021%202030_en.pdf

Poland, Slovakia and Hungary), Denmark³⁴ (many high-level discussion forums consulted e.g., Nordic Energy Forum). See also Finland³⁵.

8. The failure of the EU Commission to tackle the above breaches of the requirements of the Governance Regulation/SEA Directive/Aarhus Convention. It is clear from the Commission Staff Working Document³⁶ from 2020 on the previous round of NECPs that no attention was paid to the extensive failures in the area of access to information and public participation. It is clear from the State of the Energy Union Address and accompanying Commission Staff Working Document 2023³⁷ that a similar approach is being taken this time around. There is no mention of environmental assessment in the Commission Staff Working document. The document's only comment on public participation was a vague one paragraph statement to the effect that some countries had consulted or would consult in future, with no mention of the key role of Strategic Environmental Assessment Reports in informing and involving the public. Some of the countries commended in this way have in fact no draft updated NECP submitted (e.g., Bulgaria). Others had no information on public consultations according to NGO analysis (e.g., Estonia) and a number did not provide any draft to the public prior to submission to the Commission (e.g., Cyprus, Italy, Portugal, Spain). The Commission also highlighted best practice in Multilevel Climate and Energy Dialogues of countries that have yet to submit their draft updated NECPs (Germany, Austria and France³⁸).

By contrast to this relatively positive paragraph from the EU Commission, several NGO analyses³⁹ show that no attention is paid to climate literacy or access to information, and generally only a cursory nod is given towards engaging the public at all. Perusal of the documents themselves reveal the situation is in fact much worse than portrayed in the Commission assessment. For example, Sweden⁴⁰ seems to be attempting to rely on prior consultation on distinct elements of the Plan individually, as evidence of public consultation (e.g., para 1.3.3.1 Climate Policy Network, para 1.3.3.2 Energy Commission, para 1.3.3.4 Governments Climate Action Plan. The implications and effects of a discrete element like the Governments Climate Action Plan may have completely different environmental effects when taken alone as opposed to when it is taken together with all of the other elements. This also means that there can have been no strategic environmental

³⁴ Denmark NECP https://commission.europa.eu/system/files/2023-07/EN_DENMARK%20DRAFT%20UPDATED%20NECP.pdf

³⁵ Finnish NECP https://commission.europa.eu/system/files/2023-07/DRAFT%20NECP%20update_Finland.pdf

³⁶ Commission Communication (Sept 2020) 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, COM/2020/564 final <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1600339518571&uri=COM%3A2020%3A564%3AFIN>

³⁷ Commission Staff Working Document: Assessment of progress towards the objectives of the Energy Union and Climate Action Accompanying the document Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions State of the Energy Union 2023 Report (pursuant to Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action) SWD/2023/646 final <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=SWD:2023:646:FIN&qid=1698236844015>

³⁸ Commission Staff Working Document 2023 SWD/2023/646 final <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=SWD:2023:646:FIN&qid=1698236844015>

³⁹ EEB (October 2023) Much Ado About Nothing: An Assessment of Nine Updated Draft National Climate Action and Energy Plans, LIFE Funded Research Report, <https://eeb.org/wp-content/uploads/2023/10/An-assessment-of-9-updated-draft-National-Energy-and-Climate-Plans-NECP-2.pdf>; Romain Didi CAN-E, Romain Laugier WWF-EU (April 2023) Public Participation in the NECPs: Evidence of Weak and Uneven Compliance, Together for 1.5 LIFE Funded Research Report <https://1point5.caneurope.org/wp-content/uploads/2023/04/REPORT-Public-participation-in-National-Energy-and-Climate-Plans.pdf>.

⁴⁰ Draft Updated National Energy and Climate Action Plan Sweden 2023 https://commission.europa.eu/system/files/2023-07/EN_SWEDEN%20DRAFT%20UPDATED%20NECP.pdf

assessment report of the whole plan provided to the public when consulting in this manner. Absence of transboundary public consultation is evident in that Plan.

Croatia⁴¹ did not carry out any public consultation, relying on the consultations carried out for the previous NECPS in 2018/2019.

The failure of the EU Commission to highlight these omissions suggests that they are not interested in these matters. This is concerning given the fact that the IPPC highlighted failure of inclusive governance as a maladaptation which makes exceedance of Paris Agreement Targets more likely. IPPC and other research discussed above show that making poor choices at this point locks us into future pathways of guaranteed extreme global warming. The extensive non-compliance shows clearly that the EU Commission have not put in place a sufficiently robust legislative or other framework to ensure that the public have access to the information they need to be able to understand, analyse or otherwise engage with the NECPs in a meaningful way. The continued failure to highlight the issues here sends a signal to Member States that they do not need to take access to information and public participation seriously, undermining the effectiveness of the climate governance solutions put in place, and public trust in those solutions.

There are serious consequences to attempting to bring about the kind of drastic societal shifts required to reach the target of net zero by 2050, while not giving the public most affected by these shifts a say in the plans being made. This damages trust in public institutions, lowers public consensus for action⁴² and plays into the hands of climate conspiracy theorists and the misinformation industry. If the Member States and the Commission continue to ignore the public concerned in their efforts to radically reform how we all live and work, this will damage public trust in climate policy. It also results in policies that are far less effective (as highlighted by the IPPC) and do not have widespread buy in, and therefore are set up to fail.

The Governance Regulation itself should be amended to ensure that Member States provide draft strategic environmental assessment reports with draft updated NECPs for consultation, in a way that complies with the requirements of the SEA Directive and the Aarhus Convention prior to finalising the draft NECP, at an early stage while all options to revise the draft are realistically open.

Key NGO Analyses of draft updated NECPs 2023 and 2019

1. EEB (October 2023) Much Ado About Nothing: An Assessment of Nine Updated Draft National Climate Action and Energy Plans, LIFE Funded Research Report, <https://eeb.org/wp-content/uploads/2023/10/An-assessment-of-9-updated-draft-National-Energy-and-Climate-Plans-NECP-2.pdf>.
2. Romain Didi CAN-E, Romain Laugier WWF-EU (April 2023) Public Participation in the NECPs: Evidence of Weak and Uneven Compliance, Together for 1.5 LIFE Funded Research Report <https://1point5.caneurope.org/wp-content/uploads/2023/04/REPORT-Public-participation-in-National-Energy-and-Climate-Plans.pdf>
3. Transport & Environment (T&E) (October 2023) Spain's new Energy and Climate Plan: facts, figures and recommendations for transport, https://www.transportenvironment.org/wp-content/uploads/2023/10/ES-draft-NECP_TE-assessment.pdf
4. Transport & Environment (T&E) (October 2023) Italy's new Energy and Climate Plan: facts, figures and recommendations for transport, https://www.transportenvironment.org/wp-content/uploads/2023/10/IT_draft_NECP_assessment.pdf

⁴¹ CROATIA DRAFT UPDATED NECP 2021 2030 (2)_0.pdf (europa.eu)

⁴² Elaine Kamark (2019) The Politics of Climate Change, Brookings <https://www.brookings.edu/articles/the-challenging-politics-of-climate-change/>

5. EEB (October 2023) EEB Demands for ECs Assessment of NECPs, <https://eeb.org/wp-content/uploads/2023/10/EEB-demands-for-ECs-assessment-of-NECPs.pdf>
6. IIDMA (September 2023) The Spanish NECP has room for improvement, says IIDMA, <https://iidma.org/en/iidma-identifies-weaknesses-in-the-niecp/>
7. EEB (June 2023) Ten Steps for Public Participation in the NECPs <https://eeb.org/library/ten-steps-for-public-participation-in-national-energy-and-climate-plans/>.
8. Alison Hough & Ciara Brennan (March 2023) EJNI Briefing-Paper Public Participation and the NECP-Revision <https://ejni.net/wp-content/uploads/2023/03/EJNI-Briefing-Paper-Public-Participation-and-the-NECP-Revision.pdf>
9. Alistair McGlone, EEB (April 2023) Legal Obligations for Public Participation during the Updating of the NECPs <https://eeb.org/wp-content/uploads/2023/03/Legal-Briefing-Public-Participation-in-NECPs-v1.pdf>.
10. ECCO (March 2023) The NECP Update: What prospects for Review?, <https://eccoclimate.org/wp-content/uploads/2023/04/NEPC-What-prospects-for-the-review-ENG.pdf>
11. Ciara Brennan, EJNI (2023) The Importance of Transparency in the NECP Revision, <https://ejni.net/wp-content/uploads/2023/07/EJNI-Briefing-on-Transparency-in-the-NECPs.pdf>
12. Justice & Environment (J&E) (March 2022) Transparent and Participative NECPs [JE CompStudy NECP imp final.pdf \(justiceandenvironment.org\)](https://www.justiceandenvironment.org/je-compstudy-niecp-imp-final.pdf)
13. Stockhaus, H. (2018). Stakeholder exclusion likely? Public Participation under the Governance Regulation. Berlin: Ecologic Institute. <https://www.ecologic.eu/15615>.
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15. Duwe, M. (2022). Making EU climate governance fit for net zero. An analysis of the current landscape of relevant EU climate policy processes and recommendations for alignment with the climate neutrality objective. Scientific opinion paper. Dessau-Roßlau: Federal Environment Agency. <https://www.ecologic.eu/18516>.

Appendices: Selected IPPC quotes on inclusive climate governance.**WG II AR6**

TS.E.5.3 *“Climate governance will be most effective when it has meaningful and ongoing involvement of all societal actors from local to global levels (very high confidence). Actors, including individuals and households, communities, governments at all levels, private-sector businesses, non-governmental organisations, Indigenous Peoples, religious groups and social movements, at many scales and in many sectors, are adapting already and can take stronger adaptation and mitigation actions. Many forms of adaptation are more effective, more cost-efficient and more equitable when organised inclusively (high confidence). Greater coordination and engagement across levels of government, business and community serves to move from planning to action and from reactive to proactive adaptation (high confidence). Inclusion of all societal actors helps to secure credibility, relevance and legitimacy, while fostering commitment and social learning (medium to high confidence), as well as equity and well-being, and reduces longterm vulnerability across scales (high evidence, medium agreement). Social movements in many cities, including those led by youth, have heightened public awareness about the need for urgent, inclusive adaptation that can enhance well-being, foster formal and informal cooperation and coherence between different institutions and build new adaptive capacities. City and local governments remain key actors facilitating climate change adaptation in cities and settlements (medium confidence). Private and business investment in key infrastructure, housing construction and insurance can drive adaptive action at scale but can exclude the priorities of the poor (medium confidence). Networked community actions can address neighbourhood-scale improvements and vulnerability at scale (very high confidence)”.* {1.4.2, 3.6.5, 6.1, 6.4, 9.4.5, Box 9.4, 11.4.1, 11.4.2, 14.6.3, Box 14.8, 17.2}”

AR6 Synthesis

C.5.6 *“Inclusive governance that prioritises equity and justice in adaptation planning and implementation leads to more effective and sustainable adaptation outcomes (high confidence). Vulnerabilities and climate risks are often reduced through carefully designed and implemented laws, policies, processes, and interventions that address context specific inequities such as based on gender, ethnicity, disability, age, location and income (high confidence). These approaches, which include multi-stakeholder co-learning platforms, transboundary collaborations, community-based adaptation and participatory scenario planning, focus on capacity-building, and meaningful participation of the most vulnerable and marginalised groups, and their access to key resources to adapt (high confidence)”.* {1.4, 2.6, 3.6, 4.8, 5.4, 5.8, 5.9, 5.13, 6.4, 7.4, 8.5, 11.8, 12.5, 13.11, 14.7, 15.5, 15.7, 17.3, 17.5, 18.4, CCP2.4, CCP5.4, CCP6.4, CCB GENDER, CCB HEALTH, CCB INDIG}”

D.2.2 *“Inclusive governance contributes to more effective and enduring adaptation outcomes and enables climate resilient development (high confidence). Inclusive processes strengthen the ability of governments and other stakeholders to jointly consider factors such as the rate and magnitude of change and uncertainties, associated impacts, and timescales of different climate resilient development pathways given past development choices leading to past emissions and scenarios of future global warming (high confidence). Associated societal choices are made continuously through interactions in arenas of engagement from local to international levels. The quality and outcome of these interactions helps determine whether development pathways shift towards or away from climate resilient development (medium confidence)”.* (Figure SPM.5) {2.7, 3.6, 4.8, 5.14, 6.4, 7.4, 8.5, 8.6, 9.4, 10.6, 11.8, 12.5, 13.11, 14.7, 15.6, 15.7, 17.2–17.6, 18.2, 18.4, CCP2.3–2.4, CCP3.4, CCP4.4, CCP5.4, CCP6.4, CCP7.6, CCB GENDER, CCB HEALTH, CCB INDIG}”