

How to improve the climate and energy governance rules

1. The context

The European Commission has opened a call for evidence to gather evidence and assess the functioning of the Governance Regulation. The information gathered will inform the report on the functioning of the Regulation the Commission will deliver in the first half of 2024 as required by article 45 of the same Regulation. The governance rules and frameworks established with the Regulation guarantee that the climate and energy legislation is planned, implemented, monitored and reviewed in a coordinated and consistent manner with the EU's energy and climate target, including the climate neutrality goal, across all member states. Without such a governance infrastructure, the mere adoption of environmental and climate legislation, sectoral and economy-wide, is not a sufficient guarantee of success in achieving the sustainable transformation needed.

T&E welcomes the opportunity to respond to the call of evidence and with this document aims at addressing some areas of improvement of EU energy and climate governance.

The governance framework and rules adopted in 2018 have become outdated as since then the EU has collectively committed to achieve climate neutrality by mid-century, which required to revise upward the 2030 target and significantly accelerate decarbonisation via the Fit for 55 policy package. Moreover, geopolitical events, such as the war in Ukraine, have exacerbated security of energy supply issues and worsened the economic distress started with the pandemic in 2020, pointing more than ever to the necessity to switch to a fossil fuel free economy and to keep together energy security, climate mitigation, industrial strategy and social policies. However, in the meantime, some of the governance instruments made available by the Governance Regulation to govern the EU's and its member states' transition to the long term goal of emission-free economy, namely the National Energy and Climate Plans (NECPs) and the Long Term Strategies (LTSs), have proved to be flawed.

2. The areas of improvement and recommendations

2.1 Strengthen long term climate planning instruments

Currently, the national Long Term Strategies are not given enough attention nor in the Governance Regulation nor by member states. In fact, the templates of the LTS are not binding, there is no monitoring of the LTS after their adoption, there is no mandatory revision every 5 years and the Commission doesn't make formal country-specific recommendations.¹ The result has been that 4

¹Duwe, Matthias et al. (2023) Can current EU climate policy reliably achieve climate neutrality by 2050? Post-2030 crunch issues for the move to a net zero economy. Berlin: Ecologic Institute, Oeko-Institut. [Link](#).

member states have not submitted their nLTS (3 years after the deadline) and that the strategies, even if manifestly outdated, are not in the process to be reviewed (while refreshed NECPs are going to be submitted by the first half of 2024), entailing that the long term direction remains unclear and misaligned with the short term action. Moreover, and importantly, 7 EU countries don't include a key element of a long term strategy, i.e. a net zero target by 2050 in line with the EU's goal. However, the nLTSs should be given more prominence because they signal the country's commitment to the long term goal (despite change of governments), providing policy stability and direction to the benefit of citizens and businesses.

Moreover, even the EU has not refreshed its Long Term Strategy, the 'Clean Planet for all Europeans' adopted in 2018, which is now outdated and not in line with the new reality as a consequence of the significant changes in EU's climate policies and long term targets brought about by the European Green Deal, the EU Climate Law, the Fit for 55 package, and the RePowerEU (to name a few).

In order to give more prominence to the LTSs and the long term dimension of climate action, the Commission could consider the following:

- The templates of the LTS should be binding, more detailed and require provision of more substantial information. For instance, the template should outline the dimension of structural changes that the LTS should plan on and require that member states share data in relation to those changes;
- Indicators of long term structural changes needed should be adopted by the Commission by an implementing act required under the Governance Regulation;
- Enforcement should be foreseen in case of no or delayed submission of the LTS or of non compliance with the template or with the Commission's recommendations;
- The Governance Regulation should set a formal and structured process to review the EU LTS.;
- The Governance Regulation should clarify the mandatory sequencing of the NECP and nLTS and include templates which ensure alignment between the two instruments. The nLTSs should be developed and submitted earlier than the NECPs because the nLTSs ideally sets the strategies and the long term goals against which the consistency of short term measures and policies of the Plans must be checked.

2.2 Set rules and processes to adopt national climate neutrality targets

The long term dimension of climate action appears neglected also when considering that half of EU member states have not set a national climate neutrality target and adopted a national climate law which ensures national climate governance processes, rules and structures to ensure that target.² However, national climate laws are essential instruments of national climate policy planning and useful guidance for governments. The adoption of a national climate law, with relative national climate neutrality targets, especially when it is done through a wide participation process, enhances the political and public support for the transition, avoiding social backlash and instability. Not less importantly, the strong signal given to economic actors encourages the needed investments from the private sector and produces a stabilising effect on the transition. Thus:

- Chapter 3 of the 2018/1999 Regulation should be amended to provide that member states set a national climate neutrality target, to be reflected in their NECP and LTS, to show how they contribute to the EU's long term commitment;
- The Commission should assess whether the national climate targets indicated in the nLTS and national Climate Laws are sufficient to reach the EU goals and make recommendations if needed.

2.3 Improve NECPs' content and process

Experience with the submission of the NECP in 2019 and of their revised version in 2023 shows that there has been a weak compliance with the governance rules concerning public participation, respect of the deadlines, and transparency and availability of information underpinning the Plans³. As there is no guarantee that the NECPs are coherent with the nLTSs, it is unclear whether the NECPs put the member states (and the EU) on the pathway to decarbonisation in line with the countries' nLTSs and the EU's climate neutrality goal.

Social issues are mostly neglected, despite the fact that the energy transition will impact workers and households, as the recent energy crisis due to post-pandemic economic recovery and the war in Ukraine demonstrated. In the Plans there is no indication on the implication of energy and climate policies for industry, nor there is information about the implication of industrial plans and strategy on the demand for climate mitigation and clean technologies and resources.

EU countries usually don't sufficiently explain how the Commission's recommendations are accounted for in the final version of the Plans. National reporting information is low concerning the costs and the effects of the policies and measures, with information gaps being particularly evident for the investment needs for the transition and their source (existing or new measures, public budget or private funding)⁴.

² Ecologic Institute (2023): Climate Framework Laws Info-Matrix. Ecologic Institute, Berlin. [Link](#). More on national climate law: McLhennon, C., Brennan, C. (2023) Climate Laws: What are the experts saying? Reviewing opinions on the benefits of national framework climate laws, EJNI, June 2023. [Link](#)

³ LIFE Unify (2022), "Taking Stock & Planning Ahead: National Energy and Climate Plans as a tool to achieve climate safety and energy security". [Link](#).

⁴ European Court of Auditors (2023) Special Report. EU climate and energy targets. [Link](#)

To address these shortcomings, the actions recommended below entail mostly improving the templates of the NECPs by amending Article 4 and Annex I⁵. In particular:

- The reporting requirements on expected costs and impact on emissions of the policies and measures of the Plans which were recommended by the European Commission in its guidelines⁶ should be mandatory. To facilitate and assist the member states, the Commission or the EEA could provide a common evaluation methodology;
- Reporting requirements on the investments needed to finance the NECP and the LTS and on the source of these investments (including the roles of the public and private sector) should be more detailed and could be improved by the adoption of a common methodology to analyse the green investments needs and gaps (amending article 7);
- The NECP template should also provide that countries estimate the national needs and availability of scarce resources which are needed for the transition of different economic sector and activity, in particular with reference to environmentally sustainable biomass, hydrogen and Carbon Dioxide Removal;
- The NECP should be linked to the industrial and economic strategies of a country;
- In the NECP, Member states should detail which means and instruments to support the implementation of the Plans and which is the role of sub-national authorities in the implementation. Reporting on the costs and effects of realised implementation of the Plans, (currently to be performed by member states ever 2 years) should be more transparent and mandatory;
- The NECP template should include better reporting on the conduct and content of the public participation process (more under recommendation 2.6);
- The NECP structure should explicitly introduce a social dimension, thus the current structure based on the five dimensions of the Energy Union should be reviewed. Social issues such as just transition and energy poverty should be subject to stronger planning, reporting and monitoring requirements, for instance by making mandatory the relevant guidelines given by the European Commission⁷. Transport poverty should be addressed in the same manner and together with energy poverty in the NECP, also in consideration of the link of the NECPs and the Social Climate Plans and the relevance of the issue for the energy and climate transition;
- Indicators against which progress on the NECP is measured should be made explicit and transparent;
- Enforcement of governance rules should be strengthened, by amending article 9 to provide procedures in the case that member states don't comply with the template, provide insufficient information, or disregard Commission recommendations.

⁵ OBERTHÜR, Sebastien, MOORE, Brendan, VON HOMEYER, Ingmar, SÖEBECH, Ólöf (2023) [Towards an EU Climate Governance Framework to Deliver on the European Green Deal](#), GreenDeal-Net and Brussels School of Governance.

⁶ Commission Communication on “An EU-wide assessment of National Energy and Climate Plans”, COM(2020) 564. [Link](#).

⁷ Commission Communication on “An EU-wide assessment of National Energy and Climate Plans”, COM(2020) 564. [Link](#).

2.4 Strengthen the provisions on public consultation

The Governance Regulation requires member states to conduct public consultations for the elaboration of the NECPs and the nLTSs and to put in place multi level energy and climate dialogues. Public consultation is essential to develop plans and strategies that respond to the needs of the society and for which, in return, the society can feel ownership. However, the update of the NECP in 2023 has shown a lack of national compliance with public consultation provisions. In March 2023, 14 Member States had not opened the public consultation on the NECP update, missing the opportunity to initiate the process in an effective and timely manner as required by the legislation. 18 Member States didn't have a multilevel climate and energy dialogues set up.⁸

To address these shortcoming, the following policies options could be considered:

- The requirements for meaningful and early public consultations on the NECPs and nLTSs should be more detailed and concrete, for instance expressly requiring the inclusion of regional and local authorities, the publication of all environmental information and the initiation of public consultations when all information is accessible and the policy options are still open;
- Article 10 of the Governance Regulation should be strengthened by expanding its scope and details. This could be done by including in the article a clear reference to the standards for public participation set by the Aarhus Convention to which the EU and the member states are parties;
- Article 11 of the Governance Regulation should be improved by defining objectives, timeframes and outcomes of the multilevel climate and energy dialogues. The same provision should set minimum standards on how to define these elements and conduct the multilevel dialogues. A role for deliberative processes, such as citizens assemblies, should be created within the framework for the dialogues.

2.5 Make the right to access to justice an explicit provision of the governance framework

The right for citizens across the EU to challenge decisions, acts and omissions subject to the Governance Regulation should be included explicitly in the Governance Regulation. As the right to access to justice entails public scrutiny on governmental action, it strengthens the effectiveness of the governance framework. In theory, the EU and its member states are already bound to recognise such a right as parties to the Aarhus Convention. In practice, the right to access to justice is applied and implemented unevenly across the Union⁹. To remedy this flaw in the implementation, a solution would be to adopt rules at the European level, such as via an explicit provision in the Governance Regulation, which guarantee the public right to access to justice at national level. Not least, such an amendment of the Regulation would be in line with the Commission's own statement: *In its report pursuant to Article 45 of Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate*

⁸ DIDI Romain, LAUGIER, Romain, MASCOLO, Federico, [Public participation in national energy and climate plans - Evidence of weak & uneven compliance in Member States](#), CAN Europe and WWF EPO, April 2023.

⁹ Jan Darpö (2013), Effective Justice? Synthesis report of the study on the Implementation of Articles 9.3 and 9.4 of the Aarhus Convention in the Member States of the European Union. [Link](#).

*Action, the Commission will also assess aspects related to access to justice in EU Member States, notably as regards Article 10 of that Regulation and take that assessment into account as appropriate in any possible subsequent legislative proposal.*¹⁰

2.6 Provide more regular review of the policies

The Governance Regulation should build more frequent policy updates and review into the governance system in order to provide the EU climate and energy policy system the sufficient flexibility to adapt to external changes, be it technology developments, new information or geopolitical shocks. Therefore:

- EU's target settings should happen every 5 years (the governance of the Paris Agreement already establishes 5-years time frames);
- The update of the national and EU LTS should happen every 5 years. In order to reduce overall effort, the review could be partial.

2.7 Bring order to the many legislation-specific planning instruments

Especially with the adoption of the Fit for 55 package, there has been a multiplication of sectoral and legislation specific reports and plans which member states must develop. Without making an exhaustive list: Social Climate Plans, AFIR plans, local heat strategies in the Energy Efficiency Directive, building renovation plans in the EPBD. As part of the Governance Regulation review, the Commission should evaluate how to ensure that these planning documents are coherent with the NECPs and the overall governance structure.

Further information

Chiara Corradi
Climate policy officer
Transport & Environment
chiara.corradi@transportenvironment.org
Mobile: +32(0)488646157

¹⁰ Annex to legislative resolution relating to Regulation 2018/842 (Effort Sharing Regulation), 14 March 2023. [Link](#).

Funded by the European Union. Views and opinions expressed are, however, those of the author(s) only and do not necessarily reflect those of the European Union or CINEA. Neither the European Union nor CINEA can be held responsible for them.

