



# **Civil society engagement on public participation in NECPs revision**

**30 March 2023**

# The regulatory context

## The Governance Regulation (2011/92/EU)

**Art. 10** Without prejudice to any other Union law requirements, each Member State shall ensure that the public is given **early and effective opportunities to participate** in the preparation of the draft integrated national energy and climate plan — as regards the plans for the 2021 to 2030 period, in the preparation of the final plan well before its adoption — as well as of the long-term strategies referred to in Article 15. Each Member State shall attach to the submission of such documents to the Commission a summary of the public's views or provisional views. In so far as Directive 2001/42/EC is applicable, consultations undertaken on the draft in accordance with that Directive shall be deemed to satisfy the obligations to consult the public under this Regulation.

Each Member State shall **ensure that the public is informed**. Each Member State shall set **reasonable timeframes allowing sufficient time** for the public to be informed, to participate and express its views.

Each Member State shall limit administrative complexity when implementing this Article.

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### Bad points

- The requirement of “**reasonable timeframes** allowing sufficient time for the public to be informed, to participate and to express its views” is in line with Article 6(3) of the Aarhus Convention. However the lack of a specific/quantified timeframe is undesirable.
- No requirement to put in place the public participation process “**when all options are still open**” → missing element (although it is mentioned in the [COM guidance](#) of December 2022)
- Article 10 of the Governance Regulation does not oblige Member States to ensure that **due account is taken of the outcomes** of the public participation
- No provision granting **access to justice** to challenge the legality of the public participation process

# The regulatory context

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### Art. 11 Multilevel climate and energy dialogues

Each Member State shall establish a multilevel climate and energy dialogue pursuant to national rules, in which **local authorities, civil society organisations, business community, investors and other relevant stakeholders** and the **general public** are able actively to engage and discuss the achievement of the **Union's climate-neutrality objective** set out in Article 2(1) of Regulation (EU) 2021/1119 and the **different scenarios envisaged for energy and climate policies**, including for the long term, and review progress, unless it already has a structure which serves the same purpose. Integrated national energy and climate plans **may** be discussed within the framework of such a dialogue.

# Our assessment of the public participation processes so far

## Methodology

- A form has been circulated within CAN Europe's and WWF's networks
- Respondents = grassroots organisations from all EU MS
- Objective questions (“has a public participation process started”, “what form does it takes” etc)

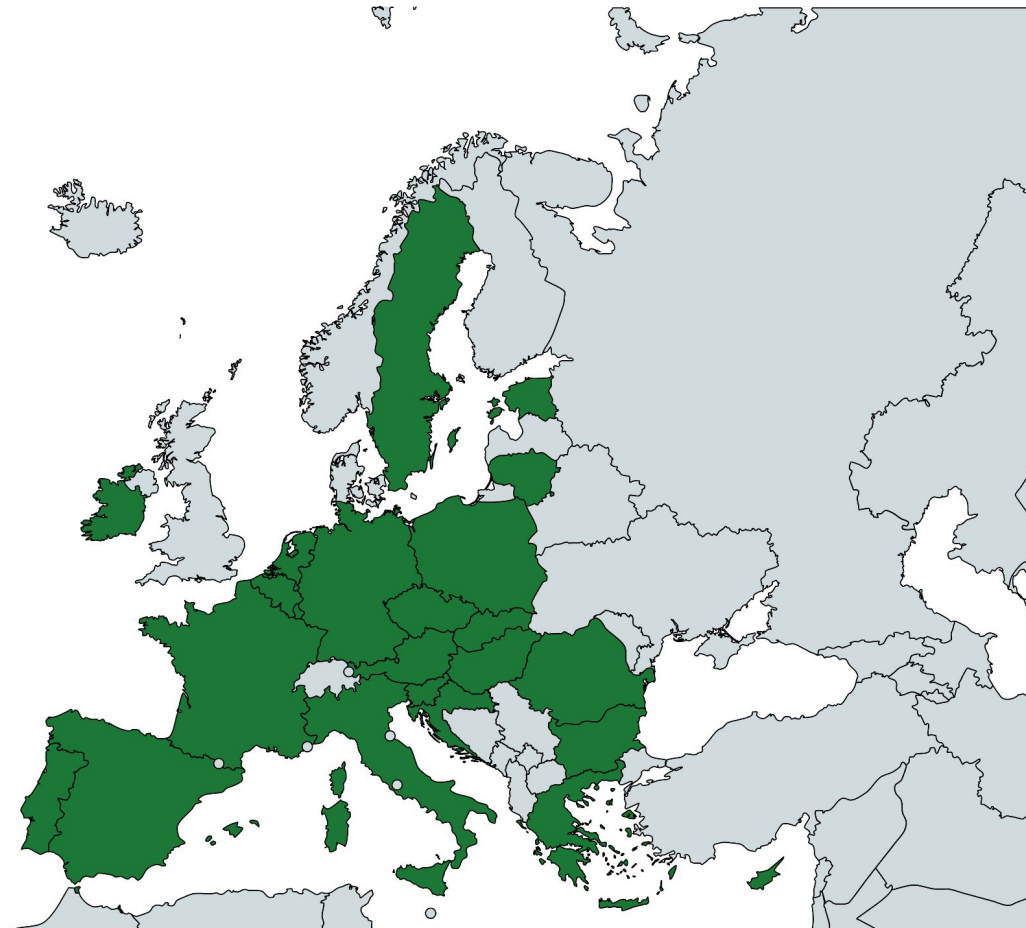
## Objectives

- Short term - Get the Commission to adopt clear recommendations on public participation in its assessment of draft revised NECPs (to be issued by the end of December 2023)
- Long term - Prepare the ground to demonstrate that the regulatory framework for public participation as set out in the Governance Regulation is not adequate and must be amended

**\* The findings to follow are still being finalised and double checked  
Please do not use them externally until our briefing is officially published  
(by mid-April)**

# Our assessment of the public participation processes so far

**Preliminary results** - 35 responses covering 23 EU countries collected in the course of March 2023



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# Our assessment of the public participation processes so far

## **Preliminary results\* - public consultation processes (art 10 Gov Reg)**

- Widespread inaction on the part of Member States – with 17 out of 23 EU Member States surveyed failing to even start any form of public consultation on NECPs
- Public consultations – at least in the form of a preliminary survey – have started in 6 countries
- In many other countries they were delayed, are expected as upcoming but with uncertain timelines and formats or have simply not been announced at all
- On several occasions, respondents highlighted the impossibility to contact their respective national governments, despite numerous efforts
- Even for those countries which initiated a public consultation, quality varies greatly

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# Our assessment of the public participation processes so far

## **Preliminary results\* - MCED (art 11 Gov Reg)**

- In 15 out of the 23 surveyed EU Member States, such national dialogues have simply not taken place yet.
- In several other countries, respondents identified existing structures which seem to serve the same purpose as Multilevel Climate and Energy Dialogues, but these structures are either not operational at the time of responding to the survey or have not discussed NECPs.
- In the end, a platform corresponding to the Multilevel Climate and Energy Dialogue was only officially implemented in three of the countries surveyed

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# Our assessment of the public participation processes so far

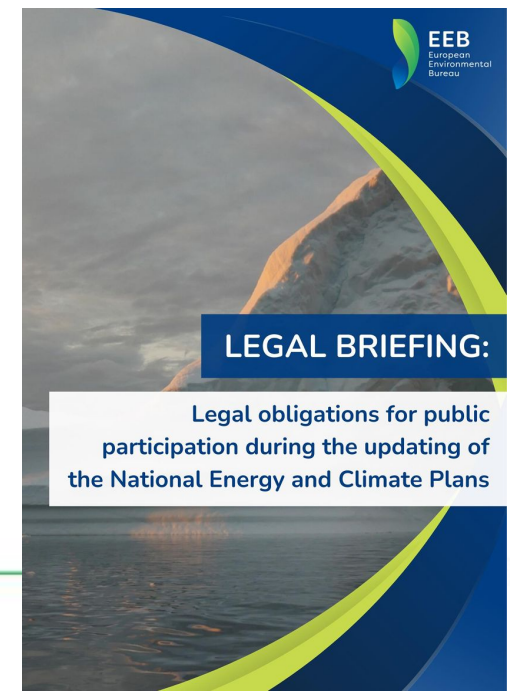
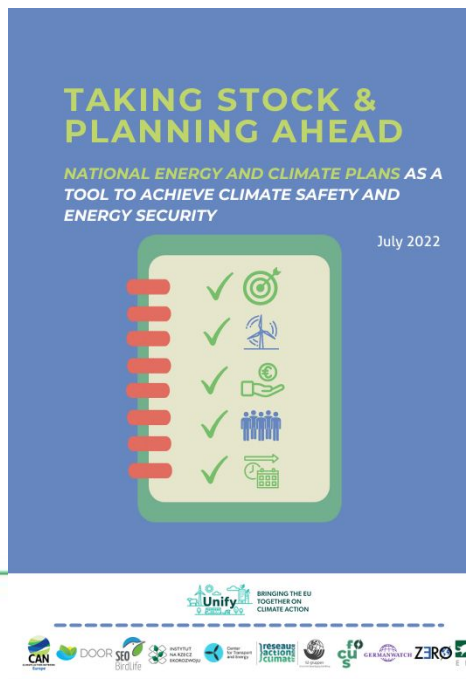
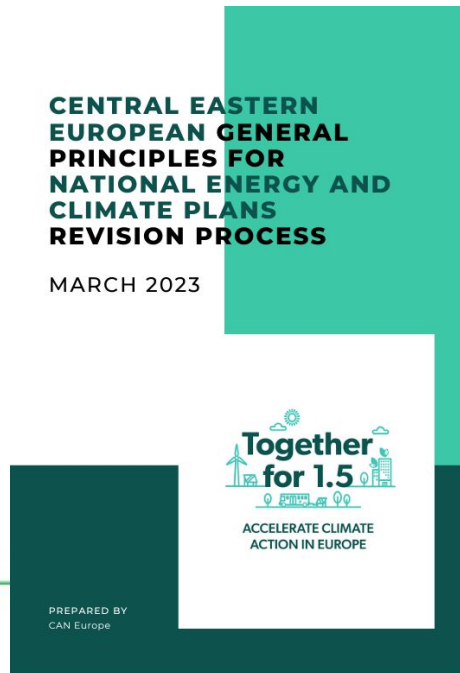
## Preliminary results - Key messages & lessons learned

- **Before** the public consultation and Dialogue take place
  - Draft revised NECPs must be made available to the public
  - The public consultation and the Dialogue must include all relevant stakeholders, through a dedicated website, proactive advertisement and invitation
- On the **design** of the public participation processes
  - Must allow the public sufficient time to participate in the consultation
  - MCED's structure and purpose should be clear from the outset
- **Following** the public consultation and dialogue
  - Both the draft revised and the revised NECPs must include a summary of the public participation processes that have been organised, with a list of the participating stakeholders, a summary of the views expressed and the extent to which the Member State integrated these views in the NECP submitted to the European Commission.

# Further resources

## Resources

- CAN Europe briefing assessing how the public participation obligation is being implemented by member states during the NECPs draft revision process (to be published on our [website](#) by mid-April 2023)
- Previous [report](#) highlighting the pp processes in during the first iteration of NECPs in 2019/2020
- EEB [legal briefing](#) “Legal obligations for public participation during the updating of the National Energy and Climate Plans” (February 2023)
- On NECPs more broadly: [Together for 1.5 website](#)





Thank you for your attention.