

MEDIA BRIEFING

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NGOs file complaints over systemic failures in climate plans across Europe

A coalition of environmental NGOs has filed a synchronised series of complaints to the European Commission, highlighting systemic failures in the final revised National Energy and Climate Plans (NECPs) of Germany, France, Italy, Ireland and Sweden.

Only 14 out of 27 countries have submitted their revised NECPs - four months after the official deadline.

What's this initiative about?

On the 6th November, the European Commission received a series of coordinated complaints against the final updated National Energy and Climate Plans (NECPs). The complaints made by national environmental NGOs highlight that the final updated NECPs of several countries fail to comply with EU law on several aspects, such as; achieving legally binding climate and energy targets, indicating when Member States intend to phase out fossil fuels subsidies and organising meaningful public participation processes in the preparation of the plan.

What is the legal basis behind this initiative?

According to Article 17 of the Treaty of the European Union ([TEU](#)) and Article 258 of the Treaty of the Functioning of the European Union ([TFEU](#)), the European Commission has a central role in ensuring that EU law is respected and correctly applied across the Union. The Commission has the authority to initiate [infringement proceedings](#) if Member States breach their obligations. The Commission identifies possible infringements of EU law on the basis of its own investigations or following complaints from citizens, businesses or other stakeholders. It has set up a

[complaints procedure](#) for the public to help it identify any measure by a Member State which is against Union law. This initiative followed this complaints procedure.

Who's behind the complaints?

National NGOs who are involved:

- Notre Affaire à Tous (France)
- Germanwatch (Germany)
- Environmental Justice Network Ireland (EJNI)
- A Sud and WWF Italy (Italy)
- Sweden's Environmental Association of Law (SEAL) and Swedish Society for Nature Conservation (Sweden)

In most cases, these NGOs are the formal signatories of the complaints, but are supported by other NGOs at the national level. The entire process is coordinated by Climate Action Network Europe.

As a European NGO, why is CAN Europe involved?

CAN Europe played a role in the coordination of the complaints, ensuring that the different complaints were sent at the same time to highlight issues of European relevance in regards to the quality of final revised NECPs.

Are there examples of similar initiatives?

Yes. In 2023, the European Consumer Organisation (BEUC) coordinated the filing of complaints to the European Commission in relation to misleading climate related claims by 17 airlines - [Green \(F\)lying](#). 23 organisations were involved, covering 19 countries.

The European Commission has already flagged that it would take legal action against some Member States which are late with their NECP submission. Is that not enough?

The European Commission has indeed stated that it would initiate legal action against those countries which are late with the submission of their final plan. More than four months after the formal deadline, this is a bare minimum. But it is not enough and the Commission has not commented about plans which have been submitted. It should be ready to act swiftly against countries which have submitted their final plans if these are not in line with EU law, which seems to be the case for many of them.

Why are some countries covered and not others?

To this date, many Member States still have not submitted their final revised NECP, which is a necessary step to send a complaint addressing the substance of the NECP. Without a final plan, it is impossible to assess its quality. Among the countries which have submitted their final plans, national NGOs from 5 countries decided to submit a complaint. More could follow in a second batch of complaints.

What are NECPs?

[National Energy and Climate Plans \(NECPs\)](#) are plans where EU Member States are required to describe, in an integrated manner, their climate and energy objectives and targets – as well as the policies and measures to achieve them until 2030 (with an outlook to 2040 and the longer term). **The 30th June 2024 was the due date for their final submission.**

Why do you say they infringe EU Law?

Issues of non-compliance of the final plans with EU law concern at least three areas. First, the climate and energy targets set in Member States' NECPs that have been submitted, fall short in meeting the binding climate and energy targets set out in various EU laws. Second, several Member States did not indicate how and by when they intend to phase out fossil fuels subsidies, as required by EU law. Finally, most

Member States have not organised meaningful public participation processes in the preparation of the revised plans, although this is a [clear obligation](#).

Do you have any evidence backing your claims that plans are not in line with EU law?

Yes. The European Climate Neutrality Observatory (ECNO) published [late October](#) a report analysing the ambition gap between Member States' legal climate and energy targets and the content of the plans. ECNO also analysed the way in which Member States followed up with their obligation to indicate how and by when they intend to phase out fossil fuels subsidies. Finally, national organisations provided evidence relating to breaches of public participation processes in the preparation of the revised NECP.

What could the European Commission potentially do based on these complaints?

The Commission may launch a formal infringement procedure. The procedure includes a range of measures, from informal talks with a given Member State to its assignment before EU Courts. Ultimately, if the breaches of EU law are not dealt with, the procedure may result in financial penalties.

What are the different steps of the infringement procedure?

The procedure follows a number of steps laid out in the EU treaties, each ending with a formal decision:

1. The Commission sends a letter of formal notice requesting further information to the country concerned, which must send a detailed reply within a specified period, usually two months.
2. If the Commission concludes that the country is failing to fulfil its obligations under EU law, it may send a reasoned opinion: a formal request to comply with EU law. It explains why the Commission considers that the country is

breaching EU law. It also requests that the country inform the Commission of the measures taken, within a specified period, usually two months.

3. If the country still doesn't comply, the Commission may decide to refer the matter to the Court of Justice. Most cases are settled before being referred to the court.
4. If an EU country fails to communicate measures that implement the provisions of a directive in time, the Commission may ask the court to impose penalties.
5. If the court finds that a country has breached EU law, the national authorities must take action to comply with the Court judgement.

Is the enforcement procedure transparent?

No. The enforcement procedure is lengthy and opaque. The Commission has broad discretion to start the enforcement process and it often depends on political reasons rather than legal ones. Most talks take place behind closed doors and most of the exchanges between the Commission and Member States are not made public.

What are your expectations?

Enforcement is not a negotiation process. Law-making is, but once the law is in place, Member States must comply and cannot negotiate themselves out of non-compliance or be excused due to national politics. Lack of enforcement endangers rule of law, people's trust in the EU and undermines democracy.

We expect the Commission to handle these complaints much quicker and allow access to documents relating to the procedure for better public oversight.

What's the timeline and what are the next steps?

Within 12 months following the submission of the complaints, the European Commission will assess them and decide whether to initiate a formal infringement procedure against the country in question. If the European Commission decides that the complaints are founded and initiates a formal infringement procedure against the country in question, the steps mentioned above will apply (letter of formal notice, reasoned opinion, referral to the EU Courts).