

92-group's response to the draft of Denmark's "updated" National Energy and Climate Plan (NECP)

June 6th, 2023

(Revised in August 2023 so NECP page references match the version Denmark submitted to the EU¹)

This response is divided into two sections:

1. The content/climate-related aspect
2. The process/lack of stakeholder involvement

92-group concludes that Denmark has failed to implement measures required by EU legislation on both of these important points, and that Denmark's authorities with the "updated" NECP is in breach of EU legislation. The final NECP is due on June 30th, 2024. 92-group strongly urges the government to use the next twelve months to address the serious shortcomings both in regard to content and to stakeholder involvement.

The Danish 92 Group – Forum for Sustainable Development is in this matter represented by:

**Care Denmark
Danish Society for Nature Conservation,
DIB
BirdLife Danmark
Greenpeace
KULU – Women and Development
Klimabevægelsen
Netværket for økologisk folkeoplysning og praksis/Øko-net
Nyt Europa
Oxfam Danmark
Rådet for Bæredygtig Trafik
Rådet for Grøn Omstilling
Sex & Samfund
U-landsforeningen Svalerne
VedvarendeEnergi
Verdens Skove**

The NECP process was established with the EU's Governance Regulation, which was introduced in 2016 after the adoption of the Paris Agreement in 2015. The regulation requires, like the Paris Agreement, that EU countries submit National Climate and Energy Plans (NECPs) that express the country's energy and climate goals, and that these national climate plans be updated every five years prior to the EU submitting its new and more stringent climate plan, the Nationally Determined Contribution (NDC), on behalf of all EU countries, in accordance with the Paris Agreement. Both for the Paris Agreement's NDCs and for the Governance Regulation's NECPs, the important "no back-sliding" condition applies. This means that each updated NDC and each updated NECP must be more ambitious than the previous one.

¹ <https://ens.dk/en/our-responsibilities/energy-climate-politics/eu-energy-union-denmarks-national-energy-and-climate>

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1 - The content/climate-related content in the NECP is missing:

The draft of the updated Danish NECP is not updated and does not represent increased ambition. The targets in Denmark's 2023 NECP are identical to the NECP that Denmark submitted in 2019. Four years later, the goal of a 70% reduction by 2030 remains unchanged and central to Denmark's 2023 NECP.

1a Updating is required, reuse of the 2019 NECP is not allowed.

Originally the Governance Regulation², Article 14(1), gave member states two options: (1) submit a draft of an updated NECP by June 30, 2023; or (2) justify to the EU Commission why an update of the existing NECP is not necessary.

Option two, where a member state can argue for simply maintaining its 2019 NECP, no longer exists. This is because at the EU level, so much climate and energy legislation has been implemented, and after the corona and energy crises, so much economic support has been given to climate and energy investments for all member states (MS), that no MS in 2023 can legitimately claim that an update is unnecessary. Therefore, the Commission's new NECP guideline³ states that all MS must update their NECP and increase ambition (Guideline top of page 2, our emphasis).

*Member States **shall** update their national plans for 2021-2030 by June 2023 (draft plans) and June 2024 (final plans). Considering the significantly evolved policies and geopolitical circumstances in energy and climate since the preparation of the initial NECPs in 2019-2020, **the updates should focus on the need for more ambitious climate action**, a faster clean energy transition, and increased energy security. The updated NECPs should allow the EU to*

² <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018R1999&from=EN>

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX%3A52022XC1229%2802%29&from=EN>

move towards a more resilient and sustainable Energy Union, including by rapidly reducing dependence on Russian fossil fuels, while leaving no one behind.

The 92 group strongly urges the government to follow the NECP guidelines and submit a genuinely updated NECP that increases Denmark's ambition. The draft presented does not achieve this.

1b Increased ambition in the NECP plans is a part of complying with the Paris Agreement.

Updating Denmark's NECP also means that ambition must be increased compared to Denmark's 2019 NECP, not just to comply with EU legislation. However, increasing ambition is clearly required to comply with EU legislation.

Governance Regulation Article 14, paragraph 3: (our emphasis).

*In the update referred to in paragraph 2, each Member State **shall** modify its national objective, target or contribution with regard to any of the quantified Union objectives, targets or contributions set out in point (a)(1) of Article 4 **in order to reflect an increased ambition as compared to that set out in its latest notified integrated national energy and climate plan**. In the update referred to in paragraph 2, each Member State **shall** modify its **national objective, target, or contribution** with regard to any of the quantified Union objectives, targets or contributions set out in points (a)(2) and (b) of Article 4 only **in order to reflect an equal or increased ambition as compared to that set out in its latest notified integrated national energy and climate plan**.⁴*

The ambition increase in the NECPs is primarily required in order to comply with the Paris Agreement. Only if the total of all member states' NECPs (which must be finalized by June 2024) shows sufficient ambition compared to the NECPs from 2019, will it be possible for the EU to submit a comprehensive EU climate plan (Nationally Determined Contribution) to the UN in 2025, demonstrating the increased climate action that the EU is committed to under the Paris Agreement.

*Article 4, paragraph 3 of the Paris Agreement: **Each Party's successive nationally determined contribution will **represent a progression** beyond the Party's then current nationally determined contribution and **reflect its highest possible ambition**...***

1c Significant climate action by the EU since 2019 requires national 2030 targets to be strengthened.

Naturally the EU can only increase its overall ambition if its member states increase the ambition in their NECPs. However, since 2019, the EU has implemented a range of new policies⁵, which means

⁴ Note: The possibility of submitting an "updated" NECP that does not increase ambition, i.e. reflecting equal ambition, was an option when the regulation was adopted in 2018, but as explained above, the new NECP guidance means that this option no longer exists. Member States must submit an updated NECP that shows an increase in ambition compared to their previous climate plans.

⁵ This refers to two types of EU policies:

1) EU Climate Policies: Since 2019, the EU has implemented a number of new climate policies (especially the FitFor55 package, including stricter emissions requirements for cars, among other things), which will mean that member states will experience significant additional reductions in their national CO2 accounts by 2030 compared to the 2030 reductions they expected to achieve themselves in the 2019 NECP.

2) EU Financing: The EU has introduced greener requirements for how member states may use the funds they receive from the EU budget (structural funds, agricultural support, etc.). The exceptional

that member states, because of the EU's efforts, will achieve increased reductions in 2030 compared to what they could have predicted in their 2019 NECP plans. There is therefore a risk that the extra reductions provided by the increased climate action at EU level will be lost if member states simply maintain their 2030 targets from their 2019 NECPs. If a member state simply maintains its 2030 target from its 2019 NECP, it will effectively mean that the country will freewheel or even reduce its national climate action in line with the extra reductions resulting from the EU's efforts. It is also to avoid this situation that the NECP update must necessarily mean tougher targets.

Denmark's "updated" NECP does not increase Denmark's 2030 target and only explains very incompletely (p.11) the reductions that the FitFor55 package contributes to reducing Denmark's 2030 emissions.

Even more incomplete is the explanation of the additional 2030 reductions that were made possible by the DKK 11.6 billion that Denmark received from the EU as COVID recovery support in 2021/22 and the DKK 1.5 billion Denmark will receive as energy crisis support under REpowerEU. Denmark claims to have used DKK 8.3 billion (the entire energy crisis support of DKK 1.5 billion and 59% of the recovery support, i.e. DKK 6.8 billion) for climate measures. Nowhere does the draft NECP calculate what additional 2030 reductions Denmark will achieve as a result of the climate measures enabled by EU support totalling DKK 8.3 billion. However, it is clear from the Commission's NECP guidance that the Commission expects the additional climate efforts enabled by EU crisis support to be quantified in terms of reductions and matched with corresponding strengthened national targets in updated NECPs.

NECP guidance, point 3.4.1 (p.17-18, our emphasis):

It is important that Member States fully reflect the energy and climate investments and reforms of the national recovery and resilience plans (RRPs) in the updated NECPs and build on them to achieve their updated 2030 targets, objectives and commitments. In quantitative terms, the Recovery and Resilience Facility (RRF) provides the largest new funding source for energy and climate policy. Up to August 2026 (80), the RRFs will continue to drive Member States' energy and climate reform and investment agendas to different degrees. The RRFs were prepared to contribute to the NECPs' objectives, targets and contributions, in view of the increased ambition for 2030 and 2050. Under the REPowerEU plan, Member States should reflect additional policies and measures in their RRFs by including a specific REPowerEU chapter.

To ensure transparency and consistency, the Commission invites Member States to clearly describe the role of the RRFs, including the REPowerEU chapters, in implementing the updated NECPs. To this end, the updated national plans should provide quantitative information with respect to the contribution of the RRF measures to the updated climate and energy objectives and targets, also in terms of financing...

Denmark received a relatively low amount of support compared to other EU countries. Therefore, it is in Denmark's interest that the additional reductions resulting from the support are measured and matched with corresponding, tightened national goals in the member states. Also for this reason, Denmark should do what the Commission invites all member states to do.

aid packages due to the pandemic (RRP) and the energy crisis (REpowerEU) have also increased EU financial support to member states. Because EU aid packages also had green conditions, the result of the aid packages is that member states have been able to accelerate their green transition, and thus achieve CO2 reductions that they could not have expected in their 2019 NECP.

1d The draft of the Danish NECP must include scenarios with additional actions.

Both the NECP guidance and the governance regulation consistently refer to "scenarios" in plural. It is thus clear that the updated NECP must contain other scenarios than just the existing-policies-projection. Denmark's draft NECP includes only one scenario, namely the existing-policies-projection. The existing-policies-projection must absolutely be included in the NECP because it is an EU legal requirement and because the projection represents the basic scenario upon which the rest of the updated NECP plan must be built. The problem with the draft of the "updated" Danish NECP is that nothing has been built on top of it. The Danish draft updated NECP is merely the existing-policies-projection.

The most recent Danish existing-policies-projection is in the context of the NECP called "WEM scenario" (With Existing Measures) in Denmark it is called "KF23". KF23 describes Denmark's emissions up to 2035, under the highly unrealistic assumption that Denmark pauses all further climate policy until 2035. Thus, the WEM-scenario describes a future that everyone knows for certain will not be the future. There will undoubtedly be new climate measures. The climate projection is not, and should not be, a plan for Denmark's climate efforts up to 2030. A frozen policy scenario/WEM scenario cannot therefore express Denmark's ambition. Ambition is expressed instead with WAM scenarios (With Additional Measures).

In Denmark's 2019 NECP, the central additional scenario was the then-new goal of a 70% reduction by 2030. In comparison, the Danish 2019 WEM-scenario (i.e. the basisfremskrivning 2019⁶) predicted that with its existing policies, Denmark would only reduce emissions by 46% by 2030. A Danish 2019 NECP, that had only included the WEM-projection, would therefore hardly have given Denmark a reputation as a climate leader and would likely have prevented the EU (in December 2020) from raising its total 2030 reduction goal from 40% to 55%.

It is thus through the WAM scenarios that the NECPs show ambition. It is for the same reason an EU legal requirement that the NECPs must include both WEM and WAM scenarios.

The new Danish draft of the "updated" NECP contains no WAM scenarios and therefore shows no ambition. The formulation of WAM scenarios is avoided by citing the regulation's explanation of additional measures as (DK NECP draft, p. 215):

"...options that are under discussion and that have a realistic chance of being adopted and implemented after the date of submission of the integrated national energy and climate plan..."

It is then claimed (without any explanation) that there exist no discussions in Denmark about any additional climate measures that have a realistic chance of being adopted. Consequently, since no additional measures exist, the Danish draft NECP contain no analysis of any scenarios with additional measures (WAM scenarios). The entire chapter that should have included all of Denmark's WAM scenarios, showing how Denmark's will exceed the frozen policy projection, is therefore completed in less than one page (DK NECP draft, p. 215). The Danish NECP draft contains no scenarios analyzing additional measures.

From page 215 in the DK draft updated NECP, one could get the impression that it is entirely up to the MS themselves to decide whether the NECP should include scenarios with additional measures

⁶ <https://ens.dk/sites/ens.dk/files/Analyser/bf19.pdf>

or not. The opposite is true. In direct continuation of the WAM-explanation from the regulation, which the DK draft NECP quotes, the governance regulation clearly explain that the NECP shall include not only the WEM scenario but also the WAM scenarios.

Governance-forordningen Annex1, part 1, section 5, footnote 1, our emphasis:

*Planned policies and measures are options under discussion and having a realistic chance of being adopted and implemented after the date of submission of the national plan. **The resulting projections under section 5.1.i shall therefore include not only implemented and adopted policies and measures (projections with existing policies and measures), but also planned policies and measures***

Increased ambition relative to the 2019 National Energy and Climate Plan (NECP) is a prerequisite for the NECP update. That the DK government instead presents an “updated” NECP that only contains a frozen policy scenario (WEM) and fails to present scenarios with additional measures (WAM) is contrary both to the spirit of the Paris Agreement and to the provisions of the Governance Regulation.

Governance Regulation Article 14, Paragraph 3:

*"In the update referred to in paragraph 2, each Member State **shall** modify its national objective, target or contribution with regard to any of the quantified Union objectives, targets or contributions set out in point (a)(1) of Article 4 in order to reflect an increased ambition as compared to that set out in its latest notified integrated national energy and climate plan. In the update referred to in paragraph 2, each Member State shall modify its national objective, target, or contribution with regard to any of the quantified Union objectives, targets or contributions set out in points (a)(2) and (b) of Article 4 only in order to reflect an equal or increased ambition as compared to that set out in its latest notified integrated national energy and climate plan⁷.*

1e 92 Group's proposal for six WAM scenarios that should be included in Denmark's updated NECP.

Under the fairly mild conditions that the additional climate measures to be included in the updated NECP should be under discussion and have a realistic chance of being adopted one day (according to Governance Regulation Annex 1, Part 1, Section 5, Footnote 1). Furthermore (In the opinion of the 92 Group) the additional meassures should preferably be adopted before or shortly after the final updated NECP is submitted (June 30, 2024). At this stage the 92 Group has the following six proposals for WAM scenarios that should be included and analyzed in the updated NECP.

WAM1: Scientifically determined 2030 target of 80% reduction:

The conditions of the regulation regarding additional measures being under discussion and having a chance of being adoption are clearly met regarding tightening Denmark's 2030 target:

⁷ Note: The possibility of submitting an "updated" NECP that does not increase ambition was an option when the regulation was adopted in 2018, but as explained in point 1a above, the new NECP guidance means that this option no longer exists. Member States must submit an updated NECP that demonstrates an increase in ambition compared to their previous climate plans.

- It was already stated in the Social Democratic government's (June 2019 – November 2022) climate program from September 2022 that the existing climate targets (including the 2030 target) would be revisited in 2023⁸.
- During the election both Prime minister Mette Frederiksen (S) and opposition leader Jacob Ellemann-Jensen (V) declared themselves open to tightening the 2030 target⁹.
- The SMV government program shows that the government will "...assess whether the reduction target for 2030 should be increased further."

It is less clear how big an increase of Denmark's 2030 target the updated NECP should analyze. To ensure anchoring in the Danish parliament, the starting point should be the Danish climate law from 2019. In the climate law, it is stated in §1, point 1, in continuation of the 70% target that "...the target is set with Paris Agreement's goal of limiting global temperature rise to 1.5 degrees in mind". Concretely, in 2019 Denmark's 70% 2030 reduction target was determined by calculating Denmark's share of the latest scientific assessment (IPCC 2018) of the remaining 1.5 degree global carbon budget. Based on §1, paragraph 1 of the Danish climate law, the updated Danish 2030 target should be calculated in the same manner, using the newest (IPCC 2022) assessment of the remaining 1.5-degree carbon budget in 2022. Greenpeace has provided such an updated 2022 carbon budget calculation¹⁰. It shows that Denmark's 2030 target should be tightened to 80%.

The WAM scenario that should be included in Denmark's updated NECP is thus that the Danish 2030 target is tightened to what a carbon budget calculation based on the IPCC's latest 1.5-degree scenario requires. This corresponds to approximately an 80% reduction in 2030.

WAM2: Denmark chooses to preempt the carbon budget that the EU (according to the EU climate law) will present in May 2024.

The arguments for why the topic is under discussion and has a chance of being adopted are the same as in WAM1, but additionally, it is already decided in article 4, paragraph 4 of the EU's climate law that the EU Commission, when presenting its proposal for the EU's new NDC, will also present an indicative carbon budget up to 2050. It is expected that the EU Commission will present both proposal for the new NDC and the carbon budget in May 2024.

The EU's carbon budget will likely result in the same outcome as in WAM1, meaning that Denmark will have to sharpen its 2030 target to at least an 80% reduction and reach net-zero by 2040.

The result will be the same in terms of the reductions Denmark needs to achieve. However, it will have a significant prestige advantage for Denmark if the government itself (via its NECP update) chooses to increase its 2030 target to 80% via its NECP update, whereas nothing good will be

⁸ <https://kefm.dk/Media/637995217763659018/Klimaprogram%202022.pdf> (p.11)

⁹ <https://www.information.dk/moti/2022/10/mette-frederiksen-giver-stoettepartierne-stor-del-aeren-groenne-omstilling-stadig-bred-regering>

<https://www.altinget.dk/klima/artikel/i-valgkampens-slutspurt-socialdemokratiet-og-venstre-aabner-for-at-haevemaal-i-klimaloven>

<https://nyheder.tv2.dk/video/dXJuOnR2MjpbjXM6YnJpZ2h0Y292ZTp2aWRlbzo2MzE0NTc0NTEwMTEy>

¹⁰ <https://www.greenpeace.org/static/planet4-denmark-stateless/2022/11/1dfaad9a-tid-til-at-haevendanmarks-klimamaal-greenpeace.pdf>

achieved if we wait until after the EU's carbon budget is presented and DK is instructed to reduce by 80% (or 85%) in 2030.

WAM3: At a minimum, increase DKs 2030 target to allow EU to reach 65% reduction in 2030

Denmark submitted its first NECP in December 2019. Since October 2020, Denmark has supported that the EU should increase its 2030 target from 40% to 65%¹¹. In December 2020, the EU ended up only increasing its 2030 target to 55%. However, it is certainly not unthinkable that the EU will increase its 2030 target once again. With the agreement on the LULUCF regulation in November 2022, the EU's 2030 target was de facto increased from 55% to 57%. In 2025, based on the indicative carbon budget, the EU will set its 2040 target, which most likely will also require the 2030 target is increased. There is definitely a discussion about increasing the EU's 2030 target, and there are good chances that it will happen shortly after the NECPs are submitted.

As an advocate for the EU reducing at least 65% by 2030, it would be sensible for Denmark's updated NECP to include a WAM scenario that at a minimum sharpens Denmark's 2030 target to the level that will be Denmark's expected share when the EU tightens its 2030 target to 65%, thereby Denmark would also in action be supporting that the EU can increase its 2030 target to 65%. (The WAM scenario will use the same effort-sharing-calculation as the EU use to determine what reduction it requires in Denmark for EU to increase its 2030 target to 65%.

WAM4: Denmark supports UN Secretary-General Guterres' "accelerating net zero" agenda by advancing its net zero year to no later than 2040.

At the presentation of the IPCC's AR6 synthesis report in March 2023, the UN Secretary-General responded by translating the heavy science into a more accessible call to accelerate net zero¹². Specifically, the IPCC reports require, as interpreted by Guterres, that all developed countries must reach net zero by 2040 and all developing countries must reach net zero by 2050. This is both a valid and necessary call to action.

A few months earlier, in December 2022, the new SMV government had in its government programme promised to accelerate climate neutrality in Denmark to 2045 (currently Denmark has committed to be net zero in 2050 at the latest). The government programme only goes halfway towards Guterres' call to action (however, in dec 2022 the SMV government had not yet had the opportunity to read the IPCC's synthesis report from March 2023). Nevertheless the decision in the new government programme shows clearly that there is a discussion about accelerating Denmark's net zero year and that it is likely to happen soon.

The WAM scenario that should be included in Denmark's updated NECP should be to advance net zero to no later than 2040 (not 2045). Partly because, as a climate frontrunner, Denmark would find it unnatural not to support Guterres in his attempts to advance net zero to 2040 and 2050 for industrialized and developing countries, respectively. Additionally, according to Guterres' statement the entire EU must reach net zero by 2040. For EU to achieve this, it is expected that Denmark, as a climate leader and according to EU effort-sharing calculations, will need to reach net zero a few years earlier. Lastly, the carbon budget calculations mentioned in WAM1 and WAM2 concurs with

¹¹ https://jyllands-posten.dk/politik/ECE12469674/klimaminister-gaar-efter-hoejere-klimamaal-i-eu-efter-pres/?utm_source=dlvr.it&utm_medium=twitter

¹² <https://press.un.org/en/2023/sgsm21730.doc.htm>

Guterras conclusion, that Denmark needs to be climate neutral around the year 2040 to stay within a 1.5-degree carbon budget. The consequence of advancing Denmark's net zero year to 2040 will likely be that the 2030 target will also need to be tightened. Both should be reflected in Denmark's updated NECP.

WAM5: Establish sector-specific reduction goals for all sectors.

In its 2019 NECP Denmark had only the overall reduction target of 70% by 2030. With the agreement on the green transformation of agriculture in October 2021¹³, the agricultural sector now has a binding reduction target of 55-65% compared to 1990. However, for all other sectors no sectoral reduction targets have been decided.

The 92-group has previously warned against the unfavorable tug-of-war that has emerged between various sectors because they do not have their own reduction targets. This spring Danish truck drivers have protested against climate regulation, but several other sectors still seem to believe that they are exempt from the green transition. So far, the electricity and heating sector has delivered the majority of Denmark's reductions, while agriculture and transport have not contributed. This will no longer be possible simply because the electricity and heating sector will soon be at zero. Sectoral targets will also provide certainty that can help sectors make investment decisions that choose long-term technologies and reject short-term solutions. See point 3 in this consultation response for more information¹⁴.

Updating the NECP is a good opportunity to finally introduce indicative sectoral reduction targets for each sector. The intention must be that the sum of the reductions resulting from the sector targets fully meets the reduction targets that apply to Denmark as a whole.

The sector targets should be included in the NECP as WAM scenarios. It can be assumed that the other sectoral targets, like the target in the agriculture agreement, will be set before measures (both sticks and carrot measures) have been adopted to achieve the full reduction required by each sector. For this reason, the reduction target for agriculture cannot be included in the WEM scenario that currently constitutes the only scenario in the updated Danish NECP. It is absolutely appropriate that frozen policy scenario, WEM, does not include the unimplemented reductions for the reduction target for agriculture¹⁵. However, all sectoral targets can advantageously be included in the NECP's WAM scenarios.

There is a strong recommendation from Article 4 of the Governance Regulation for EU member states to include sector-specific reduction targets in their updated NECPs:

¹³ https://fm.dk/media/25302/aftale-om-groen-omstilling-af-dansk-landbrug_a.pdf

¹⁴ https://www.92grp.dk/files/92grp_h%C3%B8ringssvar_2025_m%C3%A5l_ren.pdf

¹⁵ The sector target for agriculture and the government/parliament's intention to introduce a CO2 tax for agriculture are not included in the NECPs WEM-scenario, but both the sector target and the intention for the CO2 tax are mentioned in the NECP draft, for example:

(page 9): Denmark is expected to fulfill its obligations during the period 2021-2025. However, for the period 2026-2029, the proposal is assessed to result in an accumulated reduction deficit of approximately 8 million tons of CO2e for the period 2026-2029 and approximately 9.7 million tons of CO2 for the entire period of 2026-2030. The deficit can be reduced through the realization of the Agriculture Agreement's 55-65% target.

(page 21): The government will present a proposal for a climate tax on agriculture when the Expert Group for a Green Tax Reform has presented their conclusions. The climate tax is intended to ensure the implementation of the development path and the fulfillment of the binding reduction target for the agricultural and forestry sector of 55-65% in 2030 compared to 1990.

Article 4 National objectives, targets and contributions for the five dimensions of the Energy Union Each Member State shall set out in its integrated national energy and climate plan the following main objectives, targets and contributions, as specified in point 2 of section A of Annex I:

(a) as regards the dimension 'Decarbonisation':

...

(iii) where applicable to meet the objectives and targets of the Energy Union and the long-term Union greenhouse gas emissions commitments consistent with the Paris Agreement, other objectives and targets, including sector targets and adaptation goals.

WAM6: Plan to catch up on the approximately 25.2 megatons of accumulated reductions that Denmark will fall behind by 2030 compared to our EU commitments - without using flexibility mechanisms, purchasing credits abroad, or cancelling quotas.

The EU commitments are a binding task, so it is certain that this issue will both be discussed and has a chance of being adopted.

The DK Climate Council's 2023 status report concludes that Denmark will accumulate a reduction deficit of approximately 15.7 megatons in the non-quota sector and approximately 9.5 megatons deficit in the LULUCF sector by 2030¹⁶. Denmark is forced to find a solution to this shortfall of 25.2 megatons of CO₂eq in total. The shortfall is primarily due to the fact that the agricultural and transportation sectors have not kept pace with the rest of society's emission reduction rate. For decades, neither the agricultural nor the transportation sector has contributed to reductions. A solution in which the shortfall of the agricultural and transportation sectors is made up for by using flexibility mechanisms, purchasing credits abroad, or cancelling quotas does not solve the fundamental problem; that certain high emission sectors are still free riding.

The NECP should demonstrate Denmark's long-term plan. Denmark's long-term plan cannot be for the two most polluting sectors not to contribute. Therefore, the WAM scenario should be that the 25 megatons of shortfall that will accumulate by 2030 without additional measures will be addressed by introducing additional measures for the sectors that would otherwise cause the shortfall.

2 Lack of stakeholder involvement and establishment of a climate and energy dialogue

The EU's system of regularly requiring Member States to tighten their national energy and climate plans (NECPs) is important. Under the Paris Agreement, the EU is required to submit a new and enhanced climate plan (NDC) to the UN every five years, but since the EU's overall climate effort largely consists of the sum of the efforts made by its Member States, the prerequisite for the EU to show increased ambition and thus comply with the Paris Agreement is that its Member States regularly tighten their national energy and climate plans (NECPs).

Stakeholder involvement as a safeguard against free-riders

¹⁶ https://klimaraadet.dk/sites/default/files/node/field_file/Klimaraadet_statusrapport23.pdf

A serious inherent weakness of a system that depends on nationally decided climate plans is that some governments may be tempted to try to free-ride. That is, the individual Member State leaves it up to other EU countries to deliver new reductions, while it itself submits an unchanged NECP. To mitigate this free-rider risk and to encourage EU countries to actually make ambitious NECPs, Member States are under the governance regulation (arts. 8, 10, 11, and 14) legally required to involve stakeholders, both industry and civil society, early and effectively. An obligation that is reiterated and strengthened in the Commission's NECP guidance of December 2022.

Involving stakeholders cannot guarantee that NECP plans will actually be ambitious, but it can certainly make it impossible for an unambitious NECP to slip through unnoticed.

That is unless the EU country, like Denmark, deliberately ignores EU legislation and fails to involve stakeholders (art. 10), give them early access to the scenarios and analyses on which the NECP is based (art. 8), or establish a standing climate and energy dialogue (art. 11), as the law requires. This is precisely what the Danish government has done. In this respect, too, the government is failing to implement measures that EU regulation clearly requires.

2a Illegal lack of involvement of stakeholders

The government has absolutely not complied with any of its obligations regarding early and effective involvement of stakeholders. As a first step the 92 Group simply urges the government to comply with the EU legislation:

Governance Regulation: Article 10 Public consultation (our emphasis):

*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.

"Article 8, paragraph 3 of the Governance Ordinance (our emphasis)"

*Member States **shall** make available to the public **comprehensive information concerning the assumptions, parameters and methodologies used for the final scenarios** and projections, taking into account statistical restrictions, commercially sensitive data, and compliance with the data protection rules.*

The NECP guidelines contain (page 3) a fifteen point quick guide to the NECP update (our emphasis).

Principles and good practices for updating national energy and climate plans:

...

Engage in wide and inclusiveness consultation with civil society, local authorities, social partners, and sectoral stakeholders early in the process.

NECP guidelines point 3.2 (p. 16, our emphasis):

3.2 An early and inclusive public participation in line with the Aarhus Convention

As was the case for the initial plans, Member States must develop the update of the NECPs in a dialogue with local authorities, civil society organisations, social partners, the sectoral business community, investors and other stakeholders. Article 10 of the Governance Regulation requires Member States to give the public early and effective opportunities to participate in the elaboration of the NECPs. Member States are parties to the Aarhus Convention and so, they are obliged to ensure that the public is given early and effective opportunities to participate in preparing the draft updated national plans in a transparent and fair framework. In particular, the public must be given reasonable time to participate in the different phases and must be consulted when all options are still open. 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

2b The government has failed to establish the mandatory multilevel climate and energy dialogue.

The government has not fulfilled any of its obligations regarding the establishment of the dialogue forum required by the regulation. As a first step the 92 Group simply urges the government to comply with the EU legislation:

Article 11 of the Governance Regulation (our emphasis)

Multilevel climate and energy dialogue

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 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.

The preamble 39 of the Governance regulation clarify that Climate and Energy Dialogue is a permanent forum.

NECP guidance, section 3.2 (page 16, our emphasis).

Under Article 11 of the Governance Regulation, Member States must establish a multilevel energy and climate dialogue. They must provide a platform to discuss with stakeholders the different scenarios envisaged for energy and climate policies and achieving the EU's climate-neutrality objective set out in the Climate Law. Member States will report on the progress in establishing this dialogue in the NECPRs. For public consultations, Member States are

encouraged to strengthen the multilevel dialogue and work with regional and local individuals and groups who can bring forward concrete measures. They should also explore synergies with existing forums, such as the EU Covenant of Mayors. Member States also need to ensure full and timely consultation and involvement of social partners, in accordance with the relevant national rules and practices. Social dialogue and a whole-of-society approach are key for developing and implementing effective energy and climate policies in line with the principles of the European Pillar of Social Rights

2c Fulfilling the stakeholder involvement requirement entails that the NECP must include additional measures and stricter targets.

The words "shall," "must," "requires," "need to," "obliged," etc. refer to clear legal obligations that Denmark has under EU legislation. By not conducting stakeholder involvement and not establishing the mentioned dialogue forum, the Danish government has failed to implement measures that EU legislation clearly requires. The Danish 92 Group urges the government to use the time until 30 June 2024 to change that

The draft of the updated Danish NECP currently only includes one scenario, the projection based on existing measures. It does not currently include any scenarios for additional measures or stricter targets. It is especially the additional measures and stricter targets that stakeholders and the dialogue forum should be involved in. Therefore, when the 92 Group urges the government now to conduct the stakeholder involvement and establish the dialogue forum, this can only be carried out if Denmark's NECP in this process is developed to include scenarios with additional measures and stricter targets.