

Lessons for procedural climate governance in the European Union

Cross-cutting insights from eight case studies

Main findings

1. **Procedural governance** is a crucial aspect of the EU's transition to a low-carbon society and has become an integral part of the EU climate governance architecture.
2. The underlying legislation **allows the governance mechanisms to carry out their functions**, in principle. However, barriers exist to integrating the mechanisms in the policy process, and the legislation at times provides too much flexibility which could lower their potential for transformative change.
3. Transformative change is further hindered by the **ineffective implementation** of the governance mechanisms. Obligations are not always implemented, and follow-up, budget, transparency, and independence issues can create limitations resulting in a discrepancy between design and implementation.
4. Procedural governance mechanisms can be seen as having a relatively **high degree of policy resilience** – the capacity to adapt to changing circumstances – due to regular revisions of relevant legislation. This offers opportunities for more transformative action in the future.
5. **Setting precise obligations, clarifying the role of the mechanisms** in the policy process and **providing adequate resources** could help address some of the identified shortcomings.

Introduction

Procedural climate governance plays a key role in reaching climate neutrality as it shapes the decision-making process of climate measures and facilitates the required transformative action (Moore et al., 2023). As such, it has increasingly become an integral part of the EU's climate governance architecture that has been developed in the past three decades (Kögel et al., 2023).

The 4i-TRACTION project has conducted eight case studies to examine the potential of procedural governance for transformative action in the context of climate neutrality (see Gheuens & Moore, 2024 for an overview). Each of the case studies focuses on a key function of procedural governance including planning, monitoring and evaluation, participation, expert advice, access to justice and decision-making (see Table 1; Moore et al., 2023; Kulovesi, Oberthür, et al., 2024).

To investigate the case studies' transformative nature, they were assessed using three criteria drawing on Moore et al. (2023): **overall effectiveness** (the extent to which a mechanism carried out its stated function); **quality of implementation** (how well its goals were carried out 'on the ground'), and **policy resilience** (how a mechanism reacted to changing contexts). These criteria were designed to be relatively broad in order to be adapted to each of the different case studies. Despite the wide variety in governance mechanisms under investigation, we can distinguish some overarching insights.

Cross-cutting insights

Three key cross-cutting insights can be distilled from the comparative assessment of the case studies.

Insight 1: Adequate theoretical design

For procedural governance mechanisms to be transformational, they have to be able to carry out their governance functions and ideally have a long-term, transformative orientation (Moore et al., 2023). The research on the case studies shows that in principle the design of the mechanisms provides them with the ability to function and that the centrality of the climate neutrality objective in the legislation gives them a long-term orientation (Gheuens & Moore, 2024). For instance, the Aarhus Regulation provides access to justice, and the Governance Regulation sets out provisions on who to include in the multilevel climate and energy dialogues (MLCEDs) and which topics to cover (Faber et al., 2024; Mähönen, 2024). Additionally, where appropriate, the legislation often gives enough flexibility for the governance mechanisms to be adapted to different circumstances or to have a certain degree of independence (Faber et al., 2024; Kampman et al., 2024; Varis, 2024).

However, the results of the case studies also reveal shortcomings related to the **integration of the governance mechanisms in the policy process**. Unclear roles in decision-making for the mechanisms significantly impact their capacity for transformative action, even if they are otherwise performing their governance functions (Humphreys, 2024; Kulovesi et al., 2024; Varis, 2024).

Table 1 Overview of procedural governance functions and relevant case studies (Gheuens & Moore, 2024)

Procedural governance function	Description	Case studies
Planning	Provide short-, medium- and long-term planning for climate policy.	<ul style="list-style-type: none"> Integration of social dimension into climate policy planning instruments (Kögel, 2024); Access to justice and the National Energy and Climate Plans (NECPs; Mähönen, 2024); Public participation and energy infrastructure planning (Kampman et al., 2024).
Participation	Incorporate viewpoints and knowledge from stakeholders.	<ul style="list-style-type: none"> Public participation and NECPs (Von Homeyer et al., 2024); Implementation of Multilevel Climate and Energy Dialogues (MLCEDs, Faber et al., 2024).
Monitoring and evaluation	Monitor the implementation of policies and related environmental data. Evaluate the expected and actual impacts/effectiveness of policy.	<ul style="list-style-type: none"> Climate investment monitoring and evaluation (Humphreys, 2024).
Expert advice	Provide advice on climate science, public policy options and other topics.	<ul style="list-style-type: none"> European Scientific Advisory Board on Climate Change (ESAB-CC, Varis, 2024).
Decision-making	Set guidelines for how decisions are made, including the process.	<ul style="list-style-type: none"> Climate policy integration in the EU (Kulovesi et al., 2024). Implementation of Multilevel Climate and Energy Dialogues (MLCEDs, Faber et al., 2024).

Moreover, the research shows the careful balancing act policymakers have to make between flexibility and **specificity**. For instance, flexibility concerning the participation in energy infrastructure development allows relevant actors to adapt to their particular situation (Kampman et al., 2024). However, better guidance beyond setting minimum standards could facilitate and improve the design and implementation of participation processes.

Insight 2: Ineffective implementation

A crucial part of the transformative nature of governance mechanisms concerns the extent to which the mechanisms are effectively implemented and result in the desired outcomes (Moore et al., 2023). The analysis shows that significant barriers to

implementation exist at the national and European level (Gheuens & Moore, 2024).

Even if the design of the legislation allows governance mechanisms to carry out their functions, they are not always well implemented. For example, different interpretations of EU law in national courts can hinder access to justice, and not all stakeholders, at multiple levels of governance were involved in the MLCEDs (Faber et al., 2024; Mähönen, 2024). The **gap between design and implementation** could be a result of inadequate follow-up and implementation checks by the Commission.

Moreover, **limitations of resources, data and time** can further restrict the functioning of governance mechanisms (Humphreys, 2024; Varis, 2024). For instance, the research on public participation in the NECPs finds that it can have a greater impact if it takes place early in the policy process (Von Homeyer et al., 2024).

The case studies also reveal that **lacking transparency and independence** can influence implementation as they reduce the credibility and legitimacy of the governance mechanisms (Von Homeyer et al., 2024). Moreover, even when transparency requirements were included in the governance mechanisms' design, the relevant reports tend to suffer from low quality and difficult accessibility (Faber et al., 2024).

Insight 3: Potential for policy resilience

Due to uncertainties inherent in the EU's transition to climate neutrality, governance mechanisms have to be adaptable to

unforeseen internal and external changes (Moore et al. 2023). Moreover, regular reviews of the mechanisms could prevent unsustainable path dependencies and lock-ins.

Generally, the legislation in which the governance mechanisms were embedded such as the European Climate Law and the Governance Regulation, include a review clause that allows for some adaptability of the mechanisms and hence provides a **base level of policy resilience** (Gheuens & Moore, 2024).

Moreover, having a more **permanent nature** and/or a certain degree of **independence** such as the European Scientific Advisory Board on Climate Change (ESAB-CC) could insulate the mechanisms from any turbulence that could impact them negatively (Varis, 2024; Von Homeyer et al., 2024)). In particular as withering support for procedural climate governance mechanisms in one or more of the EU legislative institutions risks otherwise watering them down (Faber et al., 2024).

Additionally, expanding the policy options and responses to varying scenarios available in, for instance, the climate policy planning instruments, could further improve the mechanisms adaptability to change and their policy resilience (Kögel, 2024).

Conclusion

The case studies focused on a diverse range of procedural governance mechanisms in the EU. Despite this diversity, three cross-cutting results were identified: First, the design of the mechanisms gives them the ability to carry out their functions but the lack of a clear role in the policy process and the trade-off between specificity and flexibility could impact their

potential for transformative change. Second, barriers to implementation on the national and European level can further reduce the impact of governance mechanisms, in particular in the absence of strong implementation checks and enforcement. Finally, regular revisions provide opportunities to address these shortcomings and to realise transformative action in the future, depending on the composition of the EU legislative institutions.

This leaves us with three broad recommendations for policymakers for future revisions of procedural governance mechanisms.

- 1. Set precise obligations** that guide member states and other actors in successfully implementing the mechanisms. While flexibility allows for the governance mechanisms to be adapted to different national circumstances or infrastructures, too much flexibility results in their ineffective implementation. As such, clear (minimum) standards could help create consistency across processes and set a baseline for procedural quality which all relevant actors need to meet.
- 2. Clarify the role of governance mechanisms in the policy process** to

increase their impact. This could allow for better focusing of limited resources to ensure that processes like those carried out for the MLCEDs, NECPs, and ESAB-CC reports, have a more useful impact on the policy process and, as a result, on the successful transformation toward climate neutrality. Moreover, a more formal role of the mechanisms in the policy process could also improve implementation through the creation of more follow-up expectations, for instance, by indicating when policymakers have to respond to the advice of the ESAB-CC.

- 3. Provide adequate resources** for governance mechanisms to carry out their functions and to have a transformative impact. This entails ensuring that mechanisms have enough funding, that they have access to the required data, and that they are involved in the policy process in a timely fashion.

These recommendations are interrelated. Precise obligations and a clear role in the policy process could improve the efficient use of resources and move some of these procedural governance mechanisms beyond mere box-ticking activities.

References

- Faber, R., Kocher, D., Duwe, M. (2024): Fostering transformative climate governance? The potential of multilevel climate and energy dialogues. A criteria-based assessment of Member States' reports under Article 11 of the Governance Regulation. Ecologic Institute; Berlin.
- Humphreys, C. (2024). *Monitoring and evaluating climate investments in the EU: Conceptual framework and case studies*. Institute for Climate Economics.
- Kögel, N. (2024). *Policy integration: Enhancing the social dimension in climate policy planning instruments in the EU*. Ecologic Institute.
- Kögel, N., Evans, N., & Duwe, M. (2023). *Inventory of key EU governance frameworks* [4i-TRACTION Deliverable 5.2]. Ecologic Institute.
- Kulovesi, K., Lehtilä, S., Hocksell, T., & Löther, N. (2024). *Climate policy integration*. University of Eastern Finland.
- Kulovesi, K., Oberthür, S., Van Asselt, H., & Savaresi, A. (2024). The European Climate Law: Strengthening EU Procedural Climate Governance? *Journal of Environmental Law*, eqad034. <https://doi.org/10.1093/jel/eqad034>
- Mähönen, M. (2024). *Access to justice in the EU's procedural climate governance framework: A case study of the NECPs*. University of Eastern Finland.
- Moore, B. (2024). *Assessing EU procedural climate governance* [4i-TRACTION Deliverable 5.3]. Vrije Universiteit Brussel.
- Moore, B., Oberthür, S., Duwe, M., Kögel, N., Evans, N., von Homeyer, I., Kulovesi, K., Kampmann, B., Hilke, A., Mähönen, M., & Varis, K. (2023). *Transformative procedural climate governance: Mechanisms, functions, and assessment criteria* [4i-TRACTION Deliverable 5.1]. Vrije Universiteit Brussel.
- van den Toorn, E. (2024). *WP5: Participation in infrastructure*. CE Delft.
- Varis, K. (2024). *The European Scientific Advisory Board on Climate Change*. University of Eastern Finland.
- von Homeyer, I., & Oberthür, S. (2024). *Public participation in the formulation of National Energy and Climate Plans under the Governance Regulation*. Vrije Universiteit Brussel.

Legal Notice

Authors

Jana Gheuens, Vrije Universiteit Brussel

Brendan Moore, Vrije Universiteit Brussel

E-Mail: jana.gheuens@vub.be

Date

28 March 2024

Suggested citation

Gheuens, J. & Moore, B. (2024):
Assessing procedural climate governance
in the European Union. Brussels: Vrije
Universiteit Brussel.

Acknowledgements

The author would like to thank the case
study authors for their contributions in
developing the content of this policy brief
and reviewing it.

Project partners



This project has received funding from the European Union's Horizon 2020 research and innovation programme under grant agreement **No. 101003884**.