DOI: 10.46299/979-8-89504-809-2.3

3. European landscape of climate law

Introduction. The existential threat caused by climate change requires governmental efforts of the states for implementation of the Paris Agreement setting up efforts for development of economic and social transformation, based on the best available scientific and sustainable approaches. As part of the European Green Deal, with the European Climate Law, the European Union has set itself a binding target of achieving climate neutrality by 2050. Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 was named 'European Climate Law' [124].

Researches of European landscape of climate law have been provided by various organizations, institutions, and researchers, including United Nations Framework Convention on Climate Change (UNFCCC), Panel on Climate Change (IPCC), World Bank , Organization for Economic Co-operation and Development (OECD), Grantham Research Institute on Climate Change and the Environment (London School of Economics), World Resources Institute (WRI), Climate Policy Initiative (CPI), International Institute for Environment and Development (IIED), Climate Action Network (CAN), Greenpeace, World Wildlife Fund (WWF), Ecologic Institute etc. These organizations and institutions have provided comprehensive research, data, and analysis to inform the development and implementation of climate laws as well.

The framework of the Climate Law in the context of the EU climate policy. Due to the Climate Law, it was legally fixed the goal written in the Green Deal for Europe to achieve climate neutrality by 2050. The law established the interim target of slashing volume of greenhouse gas emissions by at least 55% by 2030, relative to 1990 levels. According to the law there is the concept of reaching net zero greenhouse gas emissions by 2050 by European countries collectively. This objective is primarily pursued through measures such as emission reduction for all sectors of the economy, investments in green and sustainable technologies, preservation of environment and active participation of society in achieving climate neutrality. In the EU framework for achieving the legally binding long-term goal of climate neutrality by 2050 at the latest, the law sets interim targets for 2030 and establishes a process for setting a 2040 target. The text of the law complements and integrates with procedures for planning, reporting, and monitoring national actions in the Governance Regulation (GovReg) of 2018 [125]. The most prominent legal innovation of the EU Climate Law is providing the European Scientific Advisory Board on Climate Change (Art. 3), a new expert body was proposed with the aim to inform and monitor EU policymaking. The law put obligation on the EU Commission to carry out every five years a collective progress check, analysis of the consistency of EU and Member State policies with the climate neutrality goal (Art. 6.2 and 7.1) as well as incorporating the net zero emissions as a benchmark into the impact assessments of planned EU policies (Art. 6.4). The EU legislative framework of the European Climate Law should to be used to raise climate standards of governance at national level of all Member States.

More than a half of the EU Member States adopted or in the process of adopting domestic climate laws to set a broad national framework to redress specific problems posed by climate change in strategic manner. These laws are the best instrument for incorporating a climate neutrality target with indicating the date of achieving the goal. The EU’s climate neutrality target currently applies collectively to the Union, but does not apply to each Member State. The Effort Sharing Regulation (ESR) does not establish national climate neutrality targets through EU legislation as well [126]. The individual responsibility of each state must be prioritized specifically in the national climate legal acts.

National climate laws of different states vary as much in scope as in content, they are not equally strong because of inconsistent implementation standards. In the best-case scenarios, the laws contain a set of governance mechanisms including, but not limited to, long and middle term sectoral strategies, monitoring, public participation and the creation of an independent scientific expert body to advise policy makers. These mechanisms have the benefit of guaranteeing that climate will always be high in the political agenda in the national governmental policy and planned measures. The national climate law has to establish the strategic direction for the national climate change policy and often the institutional arrangements for climate action as well.

The Climate Framework Laws Info-Matrix [127] managed by Ecologic Institute is represented in Figure 1.

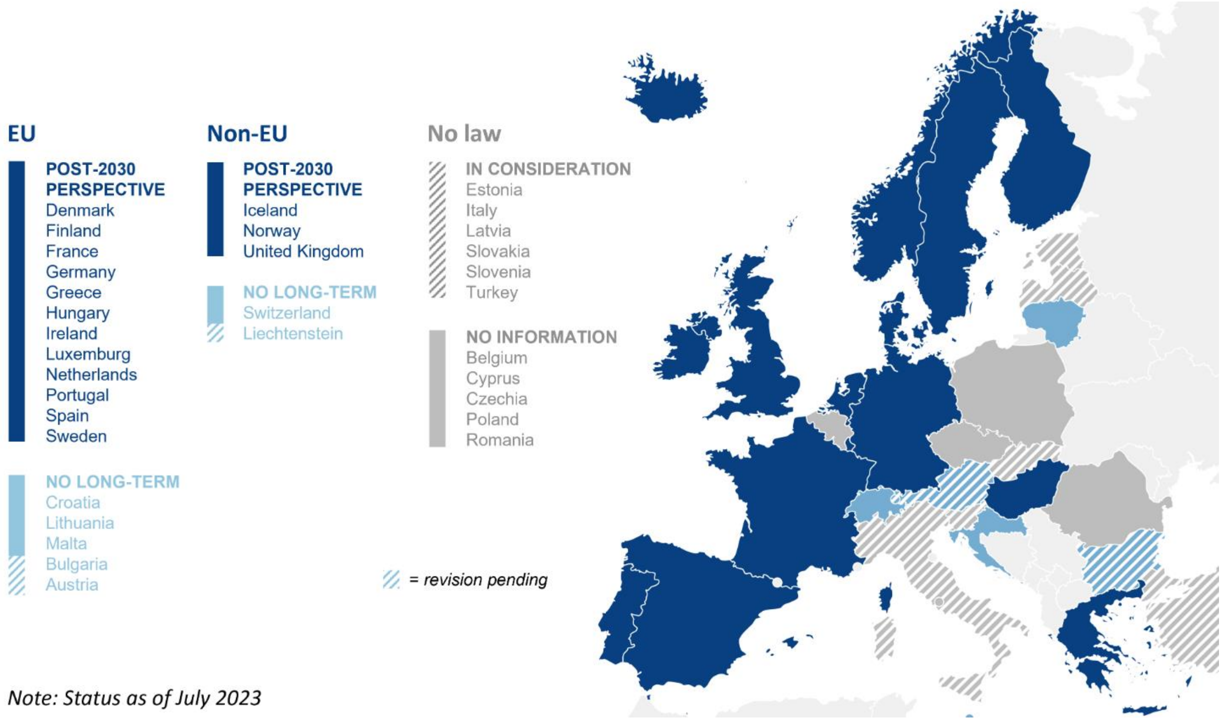

Figure 1. The Climate Framework Laws Info-Matrix

Source: Ecologic Institute, 2023

In some Member States where national climate laws have not been adopted, the National energy and climate plans (NECPs) may be the main or only document setting out national emissions reduction targets up to 2030 and the key policies that will be used to achieve climate goals or could be available another type of domestic legislation containing national climate planning processes [128]. The national energy and climate plans (NECPs) are a part of the EU climate legislation as well. In 2019 NECPs were established under the Regulation on the governance of the energy union and climate action (EU)2018/1999 [125] like a part of the Clean Energy for All Europeans package [129]. The national plans set out how EU countries aim to address five dimensions of the Energy Union: decarbonization, energy efficiency, energy security, the internal energy market, and research, innovation and competitiveness. This approach requires the coordinated efforts of all government agencies promoting both public and private investment. Under the governance regulation Member States for the first time had to develop their draft NECPs for the period 2021-2030 and submit them to the Commission by 31 December 2018. The Commission is authorized to check, analyze, evaluate and provide separate recommendations, what was done for some countries. Each country must submit a progress report every 2 years in accordance with the Implementing Regulation. The Commission monitors the progress of the European Union concerning achieving climate goals. Despite that NECPs set out the goals and measured for achieving climate neutrality by the Member States, the Governance Regulation has not been revised as part of the "Fit for 55" package [130].

Regardless of the nature and hierarchy of national legislation, good national practices must include implementing a carbon budgeting cycle, either annually or every five years, during which the country commits to specifying the exact amount of greenhouse gases (GHG) that will be emitted and the policies that will be adopted to ensure mitigation measures. This cycle must incorporate long-term climate targets, including achieving net zero emissions by a defined legally fixed target year, setting specific emission reduction goals and outlining pathways for GHG reduction. Specific climate targets are essential for the various sectors as well as regulating of banking and borrowing for stimulating more effective and rapid green transition, providing predictability for investors and other economic actors.

Good climate governance is a challenge as for EU Member States as for the states with the candidate status of accession for the EU. The framework EU Climate Law was not implemented in different way in national legislation of numerous EU countries because of different nature of their domestic legal field and political processes that has been caused historically. There is applicable structure of the existed system check and balances of good climate governance proposed by the author like a model for the next comparative analysis of legislation of the Member States (Figure 2).

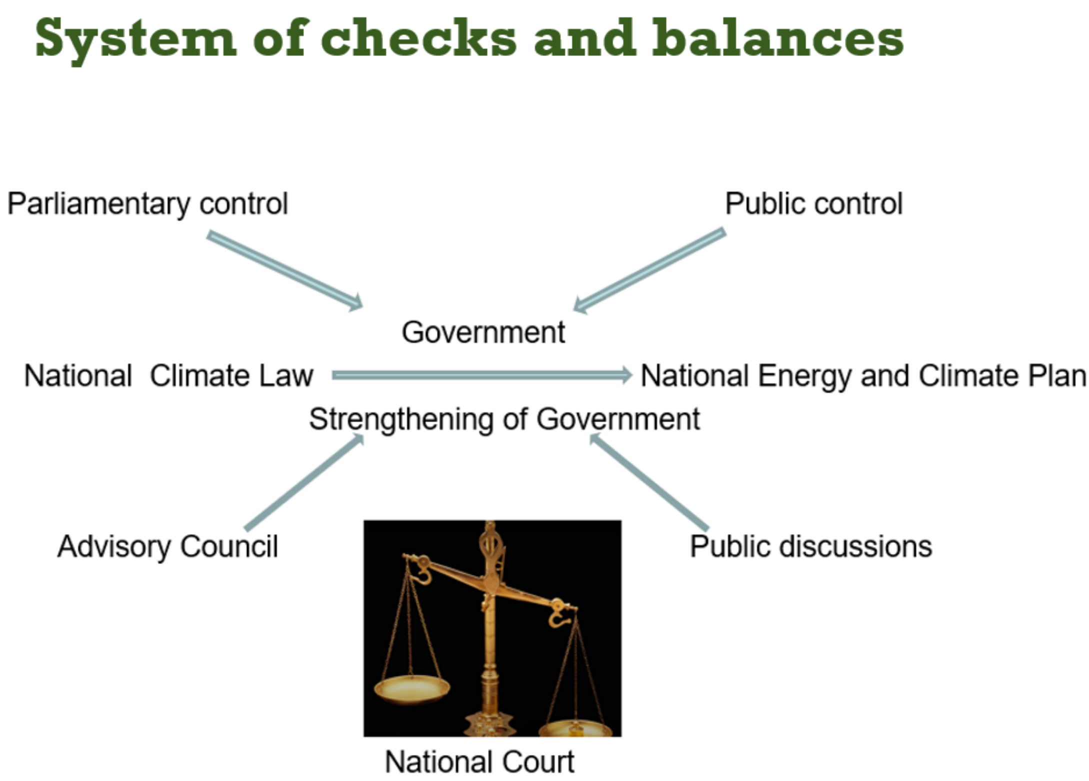

Figure 2. Model of good climate governance in the EU landscape

Source: constructed by the author

The French landscape of the climate law. The first French climate law was adopted in 2019 [131] and established a climate governance structure, including a High Council on Climate Change, and set a long-term goal of achieving climate neutrality by 2050. The second climate law named the Climate and Sustainability Law [132], was adopted in 2021 and aims to implement the proposals of the Citizens' Climate Assembly to reduce emissions in all sectors of the economy. To achieve this goal, the Prime Minister has developed a multi-year planning framework by the Environmental Planning Secretariat. The long-term strategy is the central planning document that links interim budgets and analyzes the contributions of different sectors. The inclusion of rolling budgets helps to align short- and long-term objectives more explicitly. French laws actively link governance processes to the annual budget, but do not explicitly align climate policy and government budgets. Rolling five-year carbon budgets are set 10-12 years in advance, looking ahead to 2050. Very specific instruments are included in the legislation, such as France's carbon tax or the CO_2 standard for thermal power plants.

The French law put the responsibility on the government to develop climate policy. The law also mentions numerous peripheral agencies, which in some cases are assigned specific responsibilities. The French government is obliged to submit an annual review of available public and private climate finances together with the draft budget. Parliament has monitoring functions, climate reports must be made available for review. The French Parliament has right to request analyses or assessments from the High Climate Council.

In France, the committee of experts established under the 2015 Energy Transition Law [133] and was replaced in 2018 by a new High Council for Climate Policy. The French government is obliged to respond to the High Council's recommendations. The French advisory boards are also encouraged to undertake some form of exploratory analysis beyond their reporting and monitoring obligations. The advisory bodies are required to submit independent annual reports, to which the government is required to respond in public. The High Council for Climate Change has its own secretariat in body structure and obtains its own budget due which possible to cover the need of financing of external expert studies.

The French law requires consultation before major strategic and policy plans are submitted to Parliament. Public participation processes for climate change action in France are characterized by a complex structure of overlapping institutions that operate outside the national framework law. Composed of 50 members representing six stakeholder groups, the NCET is responsible for reviewing all French policies related to sustainable development and is mentioned several times in the legislation. While the law itself makes little mention of public engagement, it requires that consultation take place before a plan is submitted to parliament.

Faced with the scale of the protests the French President launched a national "Great Debate" and decided to increase the acceptability of environmental measures by creating the Citizens' Climate Convention ("the Convention") [134]. Composed of 150 citizens and based on a "spirit of social justice," the Convention's mission was to propose measures to achieve the national goal of reducing greenhouse gas emissions by 40% by 2030 compared to 1990 levels.

The Irish landscape of the climate law. Ireland passed the Low Carbon Climate Action and Development Act in 2015 [135], which was the first national climate law. In 2021, a number of amendments were made to this law. Unlike the 2015 version of the law, the updated climate law of 2021 set a long-term goal of achieving carbon neutrality by 2050 and introduced an interim goal of reducing greenhouse gas emissions by 51% by 2030 compared to 2018 levels. The set goals should be implemented in accordance with five-year carbon budgets, combined into 15-year carbon budget programs with the corresponding establishment of sectoral limits on emissions. Ireland's Climate Action and Low Carbon Act is a framework climate law that does not provide for specific sectoral policies or measures. At the same time, the 2021 version of the Law [136] strengthens the provisions for the climate change mitigation policy planning with annual Climate Action Plans with a short, medium and long-term strategy for at least a 30-year perspective.

The Irish Climate Act provides detailed guidance whereby each relevant ministry submits a sectoral mitigation plan after consultation with an expert advisory body. These plans are then collected and combined by the Ministry of Environment, Community and Local Government, which is generally responsible for shaping climate policy, into a single climate action plan that must be approved by the government. A similar division of labor applies to annual reporting, for which, again, each ministry must prepare its own sectoral data.

The Irish law specifically mandates the Climate Change Advisory Board to conduct an annual review in addition to periodic reviews at the discretion of the Ministry, as well as to make recommendations on key plans and frameworks for government climate policy. Irish law provides that while the government "may" consult the Advisory Council, the ministry responsible for developing the national transition plan "should" consult the council. The law obliges the Climate Change Advisory Council to undertake an annual review in addition to periodic reviews at the discretion of the Ministry, and to make recommendations on key plans and frameworks for government climate policy. The Council is made up of 10 "ordinary members" with an appropriate balance between men and women and knowledge and experience in at least one of the following areas: climate science, adaptation policy, transport policy, energy policy, agricultural, behavioral and communication science, biodiversity and ecosystem services, economics, finance, political sociology or climate ethics. Irish law also contains a clause that requires members of the Advisory Board to avoid any conflicts of interest. Members are appointed by the executive branch. In addition, Ireland's Climate Change Act stipulates that the four members of the council must be civil servants who are automatically appointed according to their position. Generally, members are appointed for four or five years and may be reappointed for one additional term.

The main function of the advisory bodies is to help monitor the progress of the country's climate policy. The annual report of the Irish Advisory Council on Climate Change is sent to the Minister for the Environment and is published and made publicly available. The Climate Change Committee submits an annual progress report to Parliament, on which the Minister of the Environment must express his opinion in Parliament. The report should include information on progress and assessment of the achievement of national climate targets. Specific climate policies and measures are also evaluated every two years. In order to ensure the functioning of the expert council, it is given access to the secretariat, the function of which is performed by the Environmental Protection Agency. The Environmental Protection Agency's annual greenhouse gas inventory and forecasting reports and the advisory board's annual report contribute to monitoring compliance with national and sectoral plans for each carbon budget and sectoral emission limits. Following the annual report of the Advisory Board, the relevant ministers should report to the Committee on the implementation of the Climate Action Plan. If ministers fail to meet the targets, they must set out what corrective measures are envisaged. Ministers must respond to any recommendations made by the Committee within 3 months. The do-or-explain approach aims to ensure that there is control and accountability. The annual review of the Climate Action Plan serves as an additional verification and adjustment mechanism to ensure that climate goals are met. The National Adaptation Strategy identifies the important role of local authorities in strengthening climate resilience. The four Regional Climate Action Offices are funded by the government and have the function of supporting the preparation of local adaptation strategies in all local authorities, contributing to climate policy at the local level.

In Ireland, public consultations and discussions are held before each submission of the National Mitigation Plan, the National Adaptation Framework and the Sectoral Adaptation Plan. The Irish Citizens' Assembly [137], similar to a forum for dialogue, was established in 2016 to address a range of pressing policy issues, including climate change. The Assembly is composed of a chairman and 99 citizens selected at random to ensure broad representation of Irish society, which, after expert presentations and discussion, must vote in favor of the proposed recommendations.

The Dutch landscape of the climate law. The Dutch Climate Act [138] was passed in 2019, according to which the country must reduce greenhouse gas emissions by 95% by 2050 compared to 1990. As an interim target, the Climate Act specifies that the Netherlands must strive to cut its emission level by 49% by 2030 compared to 1990.

The Climate Act provides a framework for the development of the policy for reduction of greenhouse gas emissions in the country. For achieving this goal by 2050, the national climate law calls for a 49 percent reduction of greenhouse gas emissions by 2030 and a commitment to fully CO_2-neutral electricity generation by 2050. The responsible person in the country for determining the climate plan for the next 10 years is the Minister of Economy and Climate Policy. The Dutch Climate Plan should contain the main points of the climate policy that should be implemented in order to achieve the above-mentioned climate goals.

The country’s legislative body has the role of approving plans submitted by either the government or the responsible ministry. The annual reports and the climate plans are submitted to the respective legislative chambers. The role of the Dutch scientific body is limited to a vaguely defined annual report that includes an update on data and relevant policies.

The Climate Act clearly defines the long-term perspective of Dutch climate policy. According to Article 2 of the Law, the ultimate goal by 2050 and the intermediate goal by 2030 have been defined. Regarding the sectoral targets under the national climate agreement, the Dutch government has taken into account the economic efficiency until 2030 and defined the measures to be taken after the 2050 target is reached. For this reason, the first Climate Plan under the Climate Act also contains policy initiatives to prepare for the long term The Climate Act specifies two- and five-year phases for reviewing and accordingly updating the climate plan based on reports, so the government should focus on policies aimed at the 2050 perspective through exploratory research.

In the Netherlands, policy is largely determined by the coalition agreement and the Climate Agreement. The government's climate policy has been developed in the National Integrated Energy and Climate Plan [139] (NECP), which meets EU requirements for a national long-term strategy. The Netherlands has structured its long-term strategy by setting the agenda for the coming years, while not pretending that all the answers are known in advance.

The Climate Act guarantees the long-term focus of the national climate policy of the Netherlands in accordance with the defined climate goals. The Climate Act also establishes a quality control cycle, which is based on the European NECP cycle. In 2019, the government developed the first national climate plan, which should be revised every five years. According to the Climate Act the Dutch government must report annually to the parliament on the progress made in climate policy through the Climate Memorandum.

The Dutch Climate Plan contains the main principles of the national climate policy, which must be implemented within the next 10 years. It addresses the latest scientific insights into climate change, technological developments, international policy developments and the consequences for the economy and summarizes the national policy, the context in which this policy is developed and the consequences of this policy. The Climate Agreement contains agreements for all sectors. The main focus of these is to achieve the 2030 targets, but they also contain specific stipulations for the period beyond 2030. The contents of the Climate Plan are based on the Climate Agreement, which was concluded between more than 100 civil society parties, both public and private. This agreement contains a package of measures that have the active support of as many contributing parties as possible and which will achieve the political reduction target of 49% by 2030. The Climate Agreement provides sectoral targets based on a set of measures until 2030, and also takes into account long-term measures to facilitate the transition. Many aspects of the agreement have a long-term impact, given that they can be extended beyond 2030 or facilitate the transition that is needed in the long term. In such way, the parties of the Climate Agreement formulated the ambitions for the period up to 2050.

The climate law in the Netherlands has an entire section dedicated to “participation” but does not specify relevant parties or mention the general public, because there is a strong tradition of stakeholder participation in policy-making, as well in climate policy. The so-called “polder model” in the Netherlands is dated back to the 1950s with outgoing history of organization of the structured civil dialogues also called “polders” on a large array of policy issues [140]. In the Dutch society despite retaining no legal authority, historical precedent provides the deliberative model with a high level of legitimacy of public participation.

The Bulgarian landscape of the climate law. The Climate Change Mitigation Act [141] was adopted in Bulgaria in 2014. Despite of numerous amendments after it has been still imperfect. The legislative proposals in the ‘Fit for 55’ package to reduce its net greenhouse gas emissions by at least 55% by 2030 compared to 1990 levels and to achieve climate neutrality in 2050 have not been implemented in the Bulgarian legislation yet. There is no process to ensure that policy development is in line with the achievement of national targets for 2030 or 2050 and no policy retrospective review process to ensure that current policy is in line with the long-term goal.

The achievement of the Energy Union objectives and targets is ensured through a combination of Energy Union initiatives and national policies set out in integrated NECPs. In 2024 the European Commission after evaluating the updated NECPs recommended to Bulgaria to increase its ambitions to align with the EU's targets for

2030 because in 2023 it was initiated infringement procedures against both countries for their failure to submit their NECPs [142]. The governance systems in Bulgaria did not follow the overarching pattern for countries with climate laws. Bulgaria has a (form of) climate framework law in place as well as an internal or inter-ministerial coordination mechanism. Still, in practice the governance system lacked key elements on the other two qualities, accountability and specificity. Bulgaria is missing economy-wide emission reduction targets, a clear process for setting targets as well as a trigger mechanism at a national level to correct for insufficient action.

The Bulgarian National Expert Council on Climate Change under the Ministry of Environment and Water Resources is not an independent and transparent body for next reasons. Most of its members are representatives of ministries and departments, and only a few members are representatives of the Bulgarian Academy of Sciences, the National Association of Municipalities and non-profit legal entities, whose activities are directly related to the limitation of climate change, there are no entry or accreditation requirements, based on expertise. There is no an up-to-date website, public availability of publications and activity on social media. Such approach does not correspond to the international best practices. There are no provisions for active public oversight of climate policy, specific instructions of public participation and dialogue with civil society on climate issues.

The Bulgarian climate law does not provide a supervisory role for the parliament, i.e. the Minister of Environment and Water Resources is not required to report on the development and implementation of climate policy to Parliament. Best practice models ensure the participation of national parliaments because it helps to build cross-party understanding and support, which, in turn, helps build long-term political will and leadership over time.

The involvement of the public in the decision-making process, in the formation of climate policy, according to the provisions of the law, equals practically zero, and is mainly reduced to passive informing on topics that are rather strictly technical, such as reports on the national inventory of greenhouse gas emissions**.** At the same time under Art.62, the Minister for the Environment and Water Resources must provide the public with full information on decisions related to the allocation of quotas, information on project activities in which Bulgaria participates or for participation in which it has authorized others, and emission reports under the Access to Public Information Act or Chapter 2 of the Environmental Conservation Act, depending on the nature of the information requested. The best practice models make a strong emphasis on the process of building public consensus on how to achieve a long-term national climate goal, as well as public participation processes in the development of national climate plans.

Perspectives of implementation of the climate legislation in Ukraine and Moldova. After the start of large-scale Russian armed aggression in 2022, Ukraine and Moldova were given the candidate status for the EU membership. Both countries must synchronize their legislation in accordance with the acquis communautaire. In view of climate policy of the European Union it can be indicated like important the Chapter 27 "Environment", dedicated to environmental protection and climate change policy, the Chapter 15 "Energy", which concerns the synchronization of legislation in the field of energy market regulation, security of energy supply, stimulation of energy efficiency and renewable energy sources and the Chapter 27 of Section II "Sectoral Environmental and Climate Policies" to cover a number of areas regarding the environment and climate, including the existence of a national climate strategy, in particular on emission reduction and adaptation [143].

According to the acquis, obligations in the field of environment and climate make up about 200 regulations. The process of implementing the requirements for Ukraine and Moldova has not been easy. Climate strategies have been adopted in both Ukraine and Moldova. Ukraine has committed to reduce domestic emissions by 65% by 2030 [144], and Moldova by 70% [145]. But neither Ukraine nor Moldova has adopted a climate law yet.

Synchronization of the climate policy and the sustainable development concepts is a mandatory requirement for the EU membership. The old systems of post-soviet Ukraine and Moldova are not appropriative for effective adaptation, since the current policy of international financial support includes, in particular, an environmental component. The institutional development of the organizational architecture of climate governance is an important aspect of the synchronization of the legislative framework for accession to the EU.

Conclusions. Climate laws play an essential role in combating climate. At the same time climate governance is increasingly challenging democracy today because it often necessitates the development of social agreements. The primary driving force in these processes should undoubtedly be public communities, engaging actively not only in discussions and education but also in implementing decarbonization strategies and reducing greenhouse gas concentrations across various sectors. Additionally, monitoring and control are crucial. National climate laws bring mobilization of society to combat global warming on local level.

The adoption of national climate laws forms the base of effective climate governance. This includes establishing a legally defined date for achieving climate neutrality, defining long-term and medium-term strategies, ensuring balanced powers among responsible authorities with clearly defined duties, and involving advisory bodies and public participation as key elements of effective climate law. There is no one universal model of the Climate act because countries have different legal traditions and the act must be fit in its own context. The undeniable fact that only lawmaking could be the effective way to make targets legally binding. Improving of the legal mechanism for regulating activities that have a negative impact on climate change could be achieved due to analysis of the best practices of parties of the Paris Agreement and improvement of the national legislation collecting expert recommendations for achieving global climate goals no later than by 2050.